UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/65/Add.2
20 February 1998

ENGLISH
Original: SPANISH

COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports of States parties due in 1997

Addendum

HONDURAS */, **/

[18 September 1997]

---

*/ For the initial report submitted by the Government of Honduras, see CRC/C/3/Add.17; for its consideration by the Committee, see documents CRC/C/SR.158 to SR.160.

**/ The annexes may be consulted in the archives of the secretariat.

CONTENTS

	Paragraphs	Page
INTRODUCTION	1 - 75	6
A. General aspects	1 - 11	6
B. Indigenous children and children of ethnic groups	12 - 23	8
C. Agricultural production, the environment and the rights of children	24 - 30	10
D. Extreme poverty and children	31 - 33	11
E. The economic situation and public spending	34 - 39	12
F. Coordination of economic policy and social policy for children	40 - 74	13
COMMENTS ON THE OBSERVATIONS AND RECOMMENDATIONS OF THE COMMITTEE ON THE RIGHTS OF THE CHILD	75 - 127	20
A. Progress made	79 - 121	20
B. Difficulties encountered	122 - 127	28
CONTENTS OF THE REPORT IN ACCORDANCE WITH PARAGRAPH 1(b) OF ARTICLE 44 OF THE CONVENTION	128 - 130	29
I. GENERAL MEASURES OF IMPLEMENTATION	131 - 316	29
A. Harmonization of national legislation and policy with the provisions of the Convention	132 - 186	29
B. Remedies available in cases of violation of the rights recognized by the Convention	187 - 196	41
C. Comprehensive national strategy in favour of children in the framework of the Convention	197 - 218	42
D. Mechanisms to ensure implementation of the Convention	219 - 265	46
E. Coordination of the activities of the central, regional and local authorities	266 - 276	57
F. Periodic evaluation of progress with the implementation of the Convention at the national, regional and local levels	277 - 288	58
G. International cooperation	289 - 291	60

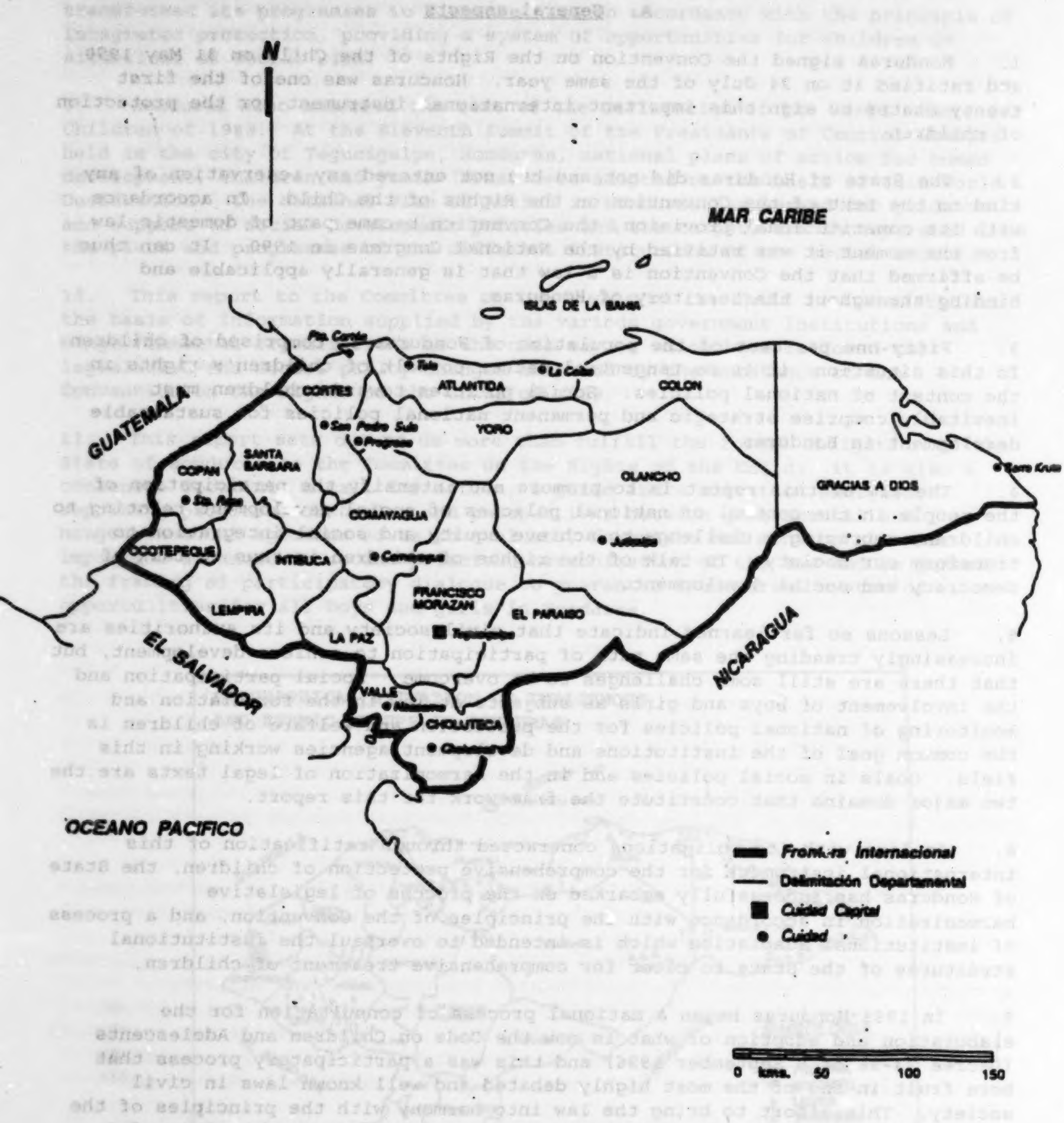
CONTENTS (continued)

		Paragraphs	Page
H.	Measures adopted or foreseen to implement article 42 of the Convention	292 - 313	60
I.	Measures taken or foreseen pursuant to article 44, paragraph 6 of the Convention	314 - 316	64
II.	DEFINITION OF THE CHILD	317 - 342	64
III.	GENERAL PRINCIPLES	343 - 413	68
A.	Non-discrimination	343 - 372	68
B.	The best interest of the child	373 - 393	72
C.	The right to life, survival and development	394 - 404	76
D.	Respect for the opinion of the child	405 - 413	78
IV.	CIVIL RIGHTS AND FREEDOMS	414 - 436	80
A.	Name and nationality	415 - 425	80
B.	Preservation of identity	426	84
C.	Freedom of expression	427	84
D.	Freedom of thought, conscience and religion	428 - 429	84
E.	Freedom of association and peaceful assembly	430 - 431	85
F.	Protection of privacy	432 - 433	85
G.	Access to relevant information	434 - 435	85
H.	The right not to be subjected to torture or other cruel, inhuman or degrading punishment	436	86
V.	FAMILY ENVIRONMENT AND ALTERNATIVE CARE	437 - 499	86
A.	Parental guidance	437 - 439	86
B.	Parental responsibilities	440 - 443	87
C.	Separation from parents	444 - 450	88
D.	Family reunification	451 - 455	89
E.	Illicit transfer and non-return	456	90

CONTENTS (*continued*)

		Paragraphs	Page
F.	Recovery of maintenance for the child	457	90
G.	Children deprived of a family environment	458 - 460	90
H.	Adoption	461 - 481	90
I.	Periodic review of conditions of placement . . .	482 - 490	95
J.	Abuse and neglect, including physical and psychological recovery and social reintegration .	491 - 499	96
VI.	BASIC HEALTH AND WELFARE	500 - 547	98
A.	Disabled children	500 - 517	98
B.	Health and health services	518 - 532	100
C.	Social security and child care services and facilities	533 - 537	103
D.	Standard of living	538 - 547	103
VII.	EDUCATION, LEISURE AND CULTURAL ACTIVITIES . . .	548 - 578	105
A.	Education, including vocational training and guidance	548 - 569	105
B.	Aims of education	570 - 577	108
C.	Leisure, recreation and cultural activities . . .	578	110
VIII.	SPECIAL PROTECTION MEASURES	579 - 722	111
A.	Children in situations of emergency	579 - 595	111
B.	Children in conflict with the law	596 - 675	113
C.	Children in situations of exploitation, including physical and psychological recovery and social reintegration	676 - 721	131
D.	Children belonging to a minority or an indigenous group	722	139

MAP OF HONDURAS


N
MAR CARIBE
ISLAS DE LA BAHIA
Pto. Cortés
Tela
La Ceiba
ATLANTIDA
COLON
CORTES
San Pedro Sula
Progreso
YORO
GUATEMALA
SANTA BARBARA
COPAN
Sta. Rosa
OLANCHO
GRACIAS A DIOS
Barra Kruta
COMAYAGUA
OCOTEPEQUE
INTIBUCA
Comayagua
Juticalpa
LEMPIRA
FRANCISCO MORAZAN
EL PARAISO
Tegucigalpa
LA PAZ
EL SALVADOR
NICARAGUA
VALLE
Nacaome
CHOLUTECA
Choluteca
OCEANO PACIFICO
Frontera Internacional
Delimitación Departamental
Cuidad Capital
Cuidad
0 kms. 50 100 150

INTRODUCTION

A. General aspects

1. Honduras signed the Convention on the Rights of the Child on 31 May 1990 and ratified it on 24 July of the same year. Honduras was one of the first twenty States to sign this important international instrument for the protection of children.

2. The State of Honduras did not and has not entered any reservation of any kind to the text of the Convention on the Rights of the Child. In accordance with its constitutional provision, the Convention became part of domestic law from the moment it was ratified by the National Congress in 1990. It can thus be affirmed that the Convention is a law that is generally applicable and binding throughout the territory of Honduras.

3. Fifty-one per cent of the population of Honduras is comprised of children. In this situation it is no tangential matter to talk of children's rights in the context of national policies. Social policies towards children must inevitably comprise strategic and permanent national policies for sustainable development in Honduras.

4. The aim of this report is to promote and intensify the participation of the people in the control of national policies of social development relating to children, embracing a challenge to achieve equity and social integration to transform our society. To talk of the rights of children is thus to talk of democracy and social development.

5. Lessons so far learned indicate that civil society and its authorities are increasingly treading the same path of participation to achieve development, but that there are still some challenges to be overcome. Social participation and the involvement of boys and girls as subjects at law in the formulation and monitoring of national policies for the protection and welfare of children is the common goal of the institutions and development agencies working in this field. Goals in social policies and in the harmonization of legal texts are the two major domains that constitute the framework for this report.

6. In line with its obligations contracted through ratification of this international instrument for the comprehensive protection of children, the State of Honduras has successfully embarked on the process of legislative harmonization in accordance with the principles of the Convention, and a process of institutional adaptation which is intended to overhaul the institutional structures of the State to cater for comprehensive treatment of children.

7. In 1993 Honduras began a national process of consultation for the elaboration and adoption of what is now the Code on Children and Adolescents (Decree 73-96 of 5 September 1996) and this was a participatory process that bore fruit in one of the most highly debated and well known laws in civil society. This effort to bring the law into harmony with the principles of the Convention on the Rights of the Child opened up important opportunities for dialogue between civil society, children and the national authorities.

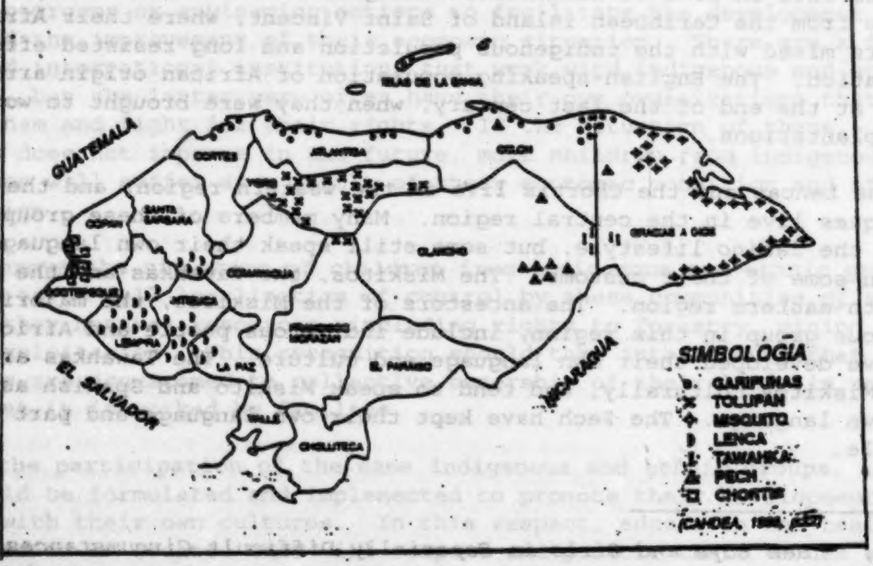
8. Another of the immediate effects of the approval of the Convention is the process of institutional change in government structures for the care and protection of children. The National Social Welfare Board has revised and transformed its programmes to dispense care in accordance with the principle of integrated protection, providing a system of opportunities for children in situations of social risk.

9. Honduras also endorsed the text of the Declaration of the World Summit for Children of 1989. At the Eleventh Summit of the Presidents of Central America held in the city of Tegucigalpa, Honduras, national plans of action for human development, children and youth (NPAs) were adopted on the basis of this World Declaration. The National Plan of Action in Honduras has served for guidance and support to social development policies and its targets are incorporated into the plans and programmes of the different institutions of the social sector.

10. This report to the Committee on the Rights of the Child is formulated on the basis of information supplied by the various government institutions and nongovernmental organizations as the case may be which have followed the legislative and social policy changes inspired by the substance of the Convention on the Rights of the Child of 1989.

11. This report sets out to do more than fulfill the formal obligation of the State of Honduras to the Committee on the Rights of the Child; it is also a consensus document, a call for action, a guide and a situation analysis, reporting progress, obstacles and perspectives between governmental and nongovernmental agencies so as to evaluate, formulate and monitor the most important advances in social policies, harmonization of the law and in general the framing of participatory dialogue to guarantee a universal system of opportunities for all boys and girls in Honduras.

GEOGRAPHICAL SITUATION OF INDIGENOUS AND ETHNIC GROUPS IN HONDURAS


ISLAS DE LA BAHIA
GUATEMALA
CORTES
ATLANTIDA
COLON
YORO
SANTA BARBARA
COPAN
GRACIAS A DIOS
OLANCHO
COMAYAGUA
OCOTEPEQUE
INTIBUCA
LEMPIRA
FRANCISCO MORAZAN
LA PAZ
EL PARAISO
EL SALVADOR
NICARAGUA
VALLE
CHOLUTECA
SIMBOLOGIA
GARIFUNAS
TOLUPAN
MISQUITO
LENCA
TAWAHKA
PECH
CHORTIS

(CANDEA, 1996,

B. Indigenous children and children of ethnic groups

12. Indigenous children are descended from the original peoples of Honduras. The Garifunas, the largest ethnic group in Honduras, have been living in this country for almost two centuries. There are, in addition, ethnic or autochthonous groups such as the Chortis, Xicaques or Tolupanes, Tawahkas, Misquitos, Pech, Islanders and Lencas. Between 8 and 12 per cent of all children in Honduras are indigenous or belong to an ethnic group. It is estimated that there are in Honduras between 55 000 and 110 000 indigenous children, between 107 000 and 134 000 Garifuna children and some 27 000 English-speaking children of African origin. The variations in these figures are due to the fact that different studies have different definitions of membership of indigenous or ethnic groups. In each case, the highest figures tend to include children who are more or less half-breeds (mixtures of Indian and Spanish blood) 1/.

13. In Honduras there are groups of people who discriminate against indigenous and ethnic populations, an attitude that dates from the colonial era. In the initial phases of colonization many indigenous people died, others were evicted from their lands and reinstalled in settlements known as "reductions", while others fled to parts of the country not yet colonized. European priests tried to persuade them to abandon their own beliefs and lifestyles to become Christians and live more like Europeans.

14. In the following centuries, part of the indigenous population mixed with the European population, giving rise to the Honduran *ladino* population. Others adopted only some of the *ladino* characteristics, creating a culture that was still indigenous but different from the original pre-conquest culture. This process of ladinization, spoiling of lands and evangelization continues to this day.

15. Most indigenous and Garifuna families live in the country. Almost all the Garifunas live in some 40 communities along the north coast. They came to Honduras from the Caribbean island of Saint Vincent, where their African ancestors mixed with the indigenous population and long resisted efforts at colonization. The English-speaking population of African origin arrived from Jamaica at the end of the last century, when they were brought to work in the banana plantations.

16. The Lencas and the Chortis live in the western region, and the Tolupanes or Xicaques live in the central region. Many members of these groups have adopted the *ladino* lifestyle, but some still speak their own language and maintain some of their customs. The Miskitos, the Tawahkas and the Pech live in the north-eastern region. The ancestors of the Miskitos, the majority indigenous group in this region, include indigenous people and Africans, and they have developed their own language and culture. The Tawahkas are very close to the Miskitos culturally, and tend to speak Miskito and Spanish as well as their own language. The Pech have kept their own language and part of their lifestyle.

1/ See *Boys and Girls in Especially Difficult Circumstances in Honduras*, National Social Welfare Board, UNICEF, Tegucigalpa, Honduras 1991.

17. Many indigenous children or children of ethnic groups share with their *ladino* "brothers" living conditions that leave them in extreme poverty, without access to social services, and force them to work. In addition to these socioeconomic problems they suffer discrimination because of their cultural differences. One of the most serious problems they have is that *ladino* society does not recognize them or respect their right to their lands. Although some groups have succeeded in obtaining titles to land in the past, they have gradually been stripped of their lands or seen them deteriorate as wood is cut down. The loss of their lands obviously leaves them in great difficulties for feeding themselves and maintaining their crops.

18. The little information there is on the health of indigenous children indicates that some groups suffer high levels of mortality, diseases and malnutrition. A study of Lenca children found that malnutrition affected 80 per cent of children under 7. The public health services are limited in these populations, but the indigenous and Garifuna cultures have their own traditional medicines and treatments for physical and mental problems, for example, the use of herbs, massage, divination and sorcery.

19. Many indigenous children and children from ethnic groups have no access to primary education because there is no school in their community or because their families are unable to pay the necessary costs. Those that do attend school have problems because their language is not spoken in the school and the curriculum does not seek to develop their culture and customs, but rather those of the majority population.

20. The lack of regard for their language and culture, the long years of exploitation and impoverishment and pressures to become *ladinos* are such that some children and young people are ashamed to speak their language or live according to their culture. Others have learned how to get on with *ladinos*, but value and retain their own customs.

21. There is at present no law setting out the rights of indigenous people and other ethnic groups or envisaging actions to facilitate the development of their cultures and the improvement of their economic situation. There are a few national and international institutions that work with indigenous and ethnic populations, but the latter very often have their own organizations that represent them and fight for their rights. If the situation of these populations does not improve in the future, more children from indigenous and ethnic groups will suffer as a result of their economic condition and of discrimination.

22. To improve the situation of children from indigenous and ethnic groups there needs to be full legalization of control by these communities of their lands and other natural resources, including rights to forestry, mining and petroleum exploitation. This recognition should take into account that some of these groups are accustomed to collective ownership of their land, in spite of the fact that it is worked by families.

23. With the participation of the same indigenous and ethnic groups, a clear policy should be formulated and implemented to promote their development in accordance with their own cultures. In this respect, education and health services need to be created that will respect and promote their values and

culture. At the same time, schools should give them adequate knowledge of the *ladino* language and society so that they are able to move in that environment and plead their interests. It is important to promote appreciation at the level of society in general of the culture and knowledge of indigenous and ethnic groups. "It is the right of children who belong to minorities or indigenous populations to have their own cultural life, practise their own religion and use their own language" (unofficial summary of article 30).

C. Agricultural production, the environment and the rights of children

24. The economy of Honduras depends to a large extent on production based on natural resources: agriculture, the forestry industry and fishing. But in the last few decades these resources have been over-exploited and wasted, threatening the future of the country's development. For example, in 1960 63 per cent of the surface area of Honduras was wooded, falling to only 36 per cent in 1980. About 1.3 million measures of fertile land are not cultivated, lie fallow or are used for animal stock rearing. At the same time, approximately 1.6 measures of land suitable only for forestry are under cultivation. In other words, the best land is used and the less fertile land is overused. This pattern of land use results in low levels of production and increases the incidence of erosion, drought and flooding, giving rise to major ecological problems and poverty.

25. In Honduras, most rural families have no land or not sufficient land to sustain themselves. About 65 per cent of rural farms have 7 measures of land or less, amounting all in all to less than 10 per cent of the arable land. Meanwhile, 4 per cent of rural farms are large estates of more than 70 measures of land each, controlling 55 per cent of the land. On these estates there are lands suitable for crop cultivation that are lying idle or used as pasture for livestock.

26. In Honduras, children are affected by ecological disasters, such as drought, flooding and environmental pollution, which may place their health at risk and limit the capacity of their families to generate an income and meet their needs. In the final months of 1990 alone, the floods on the north coast of the country affected approximately 20 000 children under 12 and their families, with about 8000 people left homeless. We do not know exactly how many children are affected by other ecological disasters, such as drought and pollution, which often only gradually cause their damage.

27. Nature has made some regions more fertile or to have greater rainfall than others. There are also times of the year when patterns of rainfall change and with them the levels of rivers. Problems arise when preventive measures are not taken to avoid the adverse effects of these natural changes or when human activities damage or contaminate nature.

28. In Honduras, one of the most serious ecological problems is the underuse of farm lands and the overuse of lands suitable for forestry. Although only 25 per cent of land in Honduras is suitable for agriculture, one third of this, i.e. 1.3 million measures, is used for animal husbandry or else left fallow. A large part of this land is on the large estates. Over the years, this has forced the peasant population to use the high lands or cultivate forest areas, both of which are not very fertile. At present, some 1.6 million measures of

less fertile land suitable for forestry are under cultivation. The farming of these lands, especially without appropriate techniques, results in much erosion and low levels of production.

29. The distribution of agricultural land is as follows:

- 65 per cent of farms control 10 per cent of the land;
- 31 per cent of farms control 35 per cent of the land;
- 4 per cent of farms control 55 per cent of the land. 2/

30. National income is distributed as follows:

- 40 per cent of the population obtain 7 per cent of the national income;
- 50 per cent of the population obtain 43 per cent of the national income;
- 10 per cent of the population obtain 50 per cent of the national income. 3/

D. Extreme poverty and children

31. Households in a situation of poverty (354 000) amount to 75.6 per cent of the total number of households, which is approximately equivalent to 80 per cent of the population, and of these 54.5 per cent are in extreme poverty. In terms of the child population, 67 per cent of children in Honduras are living in extreme poverty. In the country, the majority of these children come from poor peasant or salaried workers' families; poor peasants account for 55 per cent of people who work in the rural areas. A substantial part of their production, especially staple cereals, is consumed by the family, while they try to sell the remainder in order to be able to buy other foodstuffs and clothes, and to cover costs such as the education of their children.

32. More than 85 per cent of poor peasant families have to look for work outside the family plot, for example on the large or medium sized estates, especially during the coffee harvest or periods of harvesting of other export crops. 23 per cent of rural households depend mainly on salaried labour, but only half of them have a permanent job. Poverty in the countryside has led to migration to urban centres, where it is very difficult to get a permanent and well paid job. In addition, it is estimated that there are 354 000 households in extreme poverty, of which 80 per cent are rural.

33. Nearly one in every ten live born children will die before reaching the age of five years in the rural areas, as a result of extreme poverty. These are the children of agricultural labourers and peasant families.

2/ Data from the population census of 1974.

3/ Data for 1990.

E. The economic situation and public spending

34. Economic growth showed a rise of 3 per cent for 1996. However, this growth was concentrated in the tertiary sector, especially in financial services. Meanwhile, agriculture showed no convincing signs of improvement, as evidenced particularly in the deficit in the production of staple cereals with the consequent rise in prices to urban consumers. Notwithstanding the growth in the GDP and the fall in the rate of population increase, per capita GDP fell by 0.3 in 1996, and as it was to be expected, this affected more than half the population, consisting of children.

35. Public expenditure amounted to 20 per cent of the GDP and debt servicing accounted for approximately 35 per cent of public spending, although according to unofficial calculations, it is very likely that this proportion is as much as half of public spending when the significant devaluation of the lempira against the dollar is taken into consideration. With this the true significance of the increase in per capita public spending will be understood, for this increase from US$ 200 to US$ 235 does not necessarily represent better attention to the most needy sectors, including children, but would surely be directed towards payment of external debt.

36. It is also worth bearing in mind that although the overall balance of external debt in United States dollars decreased by 185 million dollars, the amount in local currency (lempiras) rose by nearly 7 million as a result of the falling exchange rate. The financial burden resulting from external debt has continued to limit possibilities for greater attention to the production and social sectors, and especially to children. The Government of Honduras obtained significant cancellations of its debt, mainly to the Government of the United States, with a reduction of more than US$ 450 million. Nevertheless, the balance of external public debt was US$ 3408.6 million in 1992 and rose to US$ 3811.9 million in 1996.

37. The high incidence of debt has increased not only because of the financial terms on which it was negotiated but also because of the evolution of the exchange rate. Between 1995 and 1996, the balance of debt (in dollars) fell from US$ 3996.7 to US$ 3811.9 million. But this same balance measured in national currency rose in the same years from L. 37 808.8 million to L.44 553.3 million, which means in other words that the balance of debt rose by L.6 747 million, which, converted back into dollars at the exchange rate prevailing at the time (US$1 = L.11.69), was equivalent to 577 million dollars.

38. Meanwhile, the increase in exports of goods and services (US$ 188 million) did not offset the loss incurred by trying to increase competitivity by means of a flexible exchange rate. In this economic and financial context, it was difficult to set aside resources for the social sector and especially for children.

39. In regard to the employment situation, there has been no significant change in conditions. Underutilization of the workforce (the total comprising unemployment and underemployment) is maintained at a level equivalent to 20 per cent of the SAP or 350 000 jobs. The workforce includes 130 000 children of 10 to 17 years working mainly in the informal urban sector and the traditional rural sector. There are no official statistics on child labour under the age of

10 but surveys indicate that at least 10 per cent of all children in this age group are employed in various forms of work.

F. Coordination of economic policy and social policy for children

40. Economic policy has continued to place emphasis on macroeconomic deficits. There has been success in reducing the high fiscal deficit inherited from the previous administration, reducing it from 9.3 in 1993 to 2.8 in 1996. Liberalization of prices has also been maintained in general. Nevertheless, it has not been possible to formulate a social policy to support economic reform. In the case of the situation of children, progress with institutional reform has been too slow, in addition to the economic difficulties. The institutions with most resources available to them have been the Honduran Social Investment Fund (FHIS) and the Family Allowance Programme (PRAF), which have had external support in the form of loans on concessional terms from international financial bodies and bilateral agencies.

41. The National Commissioner for Human Rights has introduced a scheme for the promotion and implementation of economic, social and cultural rights. Nevertheless, with the disappearance of the Executive Secretariat of the Social Cabinet and the Secretariat for Planning, Coordination and the Budget, a new approach to action is needed at the level of the overall population as well as for children.

42. At the same time, and as affirmed in the Commissioner's report on the human rights situation in 1996: "there have been three consecutive years of inflation, in the sense of fluctuations in the average rate of inflation of more than 20 per cent (22, 29 and 24 per cent respectively in 1994, 1995 and 1996)." There is no precedent for this situation in the economic history of Honduras and it has compounded the difficulty of maintaining economic, social and cultural rights, especially those of children. 4/

43. In regard to the measures taken to guarantee satisfaction of the basic needs of the poorer strata of the population, it should be stressed that in spite of substantial outlay and the broad range of projects for social compensation, particularly the FHIS and the PRAF, levels of poverty continue to exceed 70 per cent of households. 5/ This has occurred notwithstanding the percentage increase in expenditure on social aspects which in the period covered by this report varied between 26.7 and 33.4 per cent of overall public expenditure. 6/

44. Although there is a map showing the poorest areas of the country, which has partly served to focus the actions of social welfare programmes and projects, it must be stressed that the country has not been able to formulate

---

4/ "The difficult transition to democracy", report on human rights 1996, National Commissioner for Human Rights, Honduras, May 1997.

5/ See paragraph on external debt and children.

6/ The reference is to spending on education, health and social institutions as a percentage of overall spending by the central Government.

and consolidate a real strategy to combat poverty that would systematically reduce the number of households below the poverty or extreme poverty line.

45. As pointed out in the previous report, land distribution continues to be one of the strongest obstacles to the development and integration of the rural population, which includes a high percentage of children. The struggle to obtain land has evolved from peasant demand to claims by ethnic groups manifested in various demonstrations (peaceful marches, mostly from the western region of Honduras towards Tegucigalpa).

The overall development context 7/

46. In 1990, the population of Honduras was 4.7 million, with an average annual growth rate of 2.8 per cent. Of the total population, 45 per cent were under the age of 15 years and about 41 per cent were living in urban areas. In 1995, it is estimated that the population will have increased to 5.4 million, which represents an increase of 15 per cent in five years, with exponential growth of approximately 3 per cent annually for this period, considered to be one of the highest rates in Latin America. The overall population density of $48/km^2$ contrasts with a density of approximately $187/km^2$ in the urban areas and areas of greatest agricultural development. The distribution of the population shows a marked process of urbanization, it being estimated that 44 per cent of the population were living in urban areas in 1995.

47. The development of Honduras in the last five years has been characterized by two major factors: in the first place, consolidation of democracy, and in the second place, the implementation of a broad programme of financial stabilization and adjustment of the structure of production to face up to the macroeconomic maladjustment affecting the country in the past decade and reaching an acute culmination at the end of the 80s.

48. In regard to the process of democratization, it can be said that this process has been gathering strength since 1982. In 1993, mayors were elected for the first time in every municipality in the country by a direct ballot of the citizens. The approval and implementation of the Law on the Modernization of the State (1990) and the Law on Municipalities giving emphasis to the development of municipal government constitute a potentially important step for the consolidation of democracy in the country.

49. The Structural Adjustment Programme (SAP) seeks to achieve economic growth through the liberalization of the economy and greater development of private activity. Under this scheme, the Government is reducing and will eventually eliminate its productive and price regulation roles. The SAP has five basic thrusts, which are: to reform the structure of tariffs and trade controls so as to encourage the production of exportable goods; liberalization of the financial and farming sectors; fiscal reforms and improvement of the tax collection system; public investment programming; and privatization and restructuring of State enterprises. In the last five years tariffs protecting

---

7/ This section is based on the National Plan of Action for Human Development, Children and Youth. Progress report towards mid-decade targets and perspectives for the year 2000. SETCO, Ruta Social, UNICEF 1997.

national industry have been reduced, price controls eliminated, financial markets liberalized and an interbank market created for the lempira. To minimize the effects of adjustment deriving from market liberalization on the poor, three compensatory programmes were created: the Honduran Social Investment Fund (FHIS), the Family Allowance Programme (PRAF) and the Social Housing Fund (FOSOVI).

50. After five years of implementation of these policies, the economy of Honduras still presents serious macroeconomic imbalances, with little development of private investment. The average real growth of gross domestic product (GDP) in the period 1990-1995 was 18.2 per cent; this slight growth was reflected in per capita GDP which saw a real increase of scarcely 2.7 per cent, rising from L.6654.2 (lempiras at 1995 constant value) in 1990 to L.6836.9 in 1995. Nevertheless, as already pointed out, growth of per capita GDP was down to only 0.3 per cent in 1996. Possibilities for increasing per capita GDP are severely limited, not just by the slow rate of economic growth but also by the high rate of population growth (2.6 per cent in 1995). 8/

51. The limited reduction of non-financial public sector expenditure in relation to GDP (falling from 33.4 per cent in 1990 to 32.5 per cent in 1995), and of central government spending, which fell from 25.9 per cent to 22.2 per cent in these years respectively, has direct implications for the future development of the country. The growing demand for foreign currency to service external debt, which represented on average 9.5 per cent of GDP during the period 1990-1995, and the growing volume of imports have put pressure on the lempira, provoking a cumulative devaluation of 61 per cent as compared with its value in 1990.

52. As a result of the policy of reducing central government expenditure, the government reduced its share of total public spending from 77.8 per cent in 1990 to 68.2 per cent in 1995. A similar reduction is to be observed in government spending as a percentage of GDP, falling from 25.9 per cent in 1990 to 21.5 per cent in 1991 (the year of economic adjustment) and then rising to 26.1 per cent in 1992 and 1993. With the implementation of the policy of reduced spending, the new government reduced this ratio to 24.5 per cent in 1994 and 22.2 per cent in 1995. The application of corrective measures in 1994 resulted in a reduction for the second consecutive year of the net fiscal deficit of the central government in relation to GDP, which after rising to 9.3 per cent in 1993, fell to 5.5 per cent in 1994 and 3.4 per cent in 1995.

53. In analysing budget implementation, a slight fall in current expenditure (0.9 per cent) is to be observed, from L.5281.4 million to L.5232.0 million in 1995. Current expenditure accounted on average for 63 per cent of total government expenditure in the period 1990-95, with a ratio to GDP of 16.7 per cent in 1990 and 14 per cent in 1995. Current transfers showed a slight increase during this period (from L.665.7 million in 1990 to L.668.6 million in 1995)with an average level of 2.1 per cent in relation to GDP over this period.

8/ Estimated figure taking account of the downward trend of growth in the intercensus periods (3.5 per cent between 1961-1974 and 2.8 per cent between 1974-1988).

54. Capital expenditure shows an irregular performance, passing from L.843.9 million in 1990 to L.2708.6 million in 1993 and falling in 1995 to L.1821 million. In relation to GDP its highest level was in 1993 when it reached 7.4 per cent, falling again in 1995 to 4.9 per cent. This reduction was partly due to the substantial increase in external debt service payments and has affected the levels of investment observed in the last few years, which have basically been financed with external funds.

55. The sectors which have seen a reduction in their share of central government spending are: defence and public security, which fell from L.640.5 million (7.8 per cent) in 1990 to L.331.9 million (4.0 per cent) in 1995 (US$ 67.6 million in 1990 to US$ 35 million in 1995), or a drop in relation to GDP from 2.0 per cent to 0.9 per cent. The Ministry of the Economy and Trade also saw its budget reduced from L.67.8 million to L.36.2 million (by 0.4 per cent in relation to GDP), as did the Ministry of Labour and Social Welfare, whose budget fell from L.83.3 million to L.58.8 over the same years (from 1 to 0.7 per cent of GDP respectively). In spite of the policy of reduction there was a substantial increase in the central government budget of the Ministry of Public Health, its contribution rising from L.846.8 million (10.3 per cent) in 1990 to L.1011.0 million (12.6 per cent) in 1995, making an increase of 19.4 per cent over the period. It must be remembered that these increases are nominal.

56. Meanwhile, although the public debt was reduced from L.3074.6 million to L.2576.6 million (from 37.6 to 31.1 per cent) during this period, the resources channelled to the servicing of debt (external and internal) were considerable, representing on average 31 per cent of total central government expenditure for the period 1990-1995.

57. The contraction of central government spending is generally reflected in per capita expenditure, which fell from US$ 182.2 in 1990 to US$ 159.9 in 1995. This reduction would have no further consequences if it were accompanied by better intersectoral distribution and greater efficiency in the different sectors, especially the social sectors.

58. In this context, the availability of financial resources for the social sector has been seriously limited, with repercussions on the availability and quality of basic social services. Together with this, the magnitude of poverty and extreme poverty in the country, affecting 75.6 and 54.5 per cent of households respectively, is such that negative effects may be feared on indicators of education, health, nutrition, water, sanitation and the rights of children, which are the basic areas of the National Plan of Action for Human Development, Children and Youth.

Social expenditure connected with the National Plan of Action 9/

59. In this document public social expenditure is taken to mean the current and capital expenditure of the central government for education, health, labour and social welfare. The transfers made by the central government to decentralized public institutions which carry out activities in these sectors are included in this expenditure, together with the resources administered by

---

9/ Idem

the social welfare programmes (FHIS, PRAF and FOSOVI) established in 1990 as part of the structural adjustment programme for the economy of Honduras. The resources of these programmes comprise transfers from the central government, credits from external financial agencies and grants from various cooperation agencies. They do not include the income generated by municipal governments and autonomous public bodies, used for social projects and activities, or subsidies granted by the government for urban passenger transport, which undoubtedly add to social expenditure.

The evolution of actual social expenditure

60. In the years from 1990 to 1993 actual social expenditure in Honduras showed a rising trend, increasing from L.2487.8 million in 1990 to L.2 897.8 million in 1993. In 1994 (year in which the economy contracted) social expenditure fell to L.2566.2 million and rose again in 1995 to L.2 893.4 million. Notwithstanding these fluctuations, social expenditure increased over the period 1990-1995 by 16.3 per cent.

61. In spite of the efforts made, the behaviour of per capita social expenditure was also irregular, rising from L.524.3 (US$ 55.4) in 1990 to L.560.2 (US$59.2) in 1993, falling to L.82.5 (US$ 51.0) in 1994 only to rise again in 1995 to L.529.6 (US$55.9) - practically the same level as in 1990.

62. During the period 1990-1995 there were substantial fluctuations in social expenditure, as evidenced by macroeconomic priority indicators (social expenditure as a percentage of GDP), fiscal priority (social expenditure as a percentage of public expenditure) and available social expenditure (actual per capita social expenditure), which increased up to 1993, decreased from 1994 and present at the end of the period a situation similar to that of the start of this period.

63. Social expenditure as a percentage of GDP reduced its share by 1.9 in 1990 to 7.7 in 1995, indicating the low macroeconomic priority attached to public social expenditure. At the same time, the ratio of social expenditure as a percentage of overall public expenditure, which stayed at an average annual level of 23 per cent during the period 1990-1995, is below the level recommended by the United Nations Development Programme (UNDP) which establishes an acceptable ratio as 25 per cent. This indicates the priority assigned by the public sector to the social sectors, as determined by the policies of adjustment applied during this period.

64. Notwithstanding limitations, a real effort on the part of the government of Honduras may be observed to maintain social spending at acceptable levels, and this effort is reflected in the increase in social spending as a proportion of central government spending, rising from 30.4 per cent in 1990 to 35 per cent in 1995. This increase made it possible to maintain per capita social spending at approximately US$ 55 (annual average), which is altogether insufficient to cope with the magnitude of the social problems facing the population of Honduras and to attain the targets established in the National Plan of Action.

65. In addition, the inflationary process affecting the country (21.7 and 29.5 per cent in 1994 and 1995) has had a direct effect, inter alia, on the cost of basic social services and an incidence on the quality of the services

provided. Although no marked change in the structure of social costs in Honduras can be perceived, fiscal adjustment has affected the different social sectors differently, in part reflecting the capacity of each sector to contract or postpone expenditure, as well as the concentration of greater demand for specific social services. In general, the education sector receives the largest share of expenditure (50.2 per cent), followed by the health sector (32 per cent) and social welfare programmes (11.9 per cent), while expenditure for the labour and social security sector (which transfers funds to the National Social Welfare Board, the National Institute of Vocational Training and the Honduran Social Security Institute) tends to receive substantially less, on average 3.0 per cent for the period 1990-1995.

66. Excluding the transfers made by the Ministry of Education to other institutions, 94 per cent of expenditure on education has been for the salaries and social charges of teachers, limiting the volume of resources available for running costs and capital costs, which have in recent years been financed by external funding (loans and grants). This signals the weak ability of the government to keep these costs at acceptable levels that will ensure expansion and a minimum level of quality in the provision of educational services.

67. In addition to the problem of adequate expenditure, the educational system presents serious problems of inefficiency and inequity. In spite of improvements in the basic indicators of education (national averages), there are important groups of the population that present great shortfalls to these indicators ("Education and Poverty", UNIS/SECPLAN 1996). The inefficiency of the system manifested in the high rates of repetition and dropout represents an annual burden to the State of Honduras of about US$ 42 million. Inequity is manifested principally through the channelling of resources to higher education, where there is a substantial transfer of resources to families that are not poor, and arises above all from the limited access of the population to secondary education (the average length of attendance in Honduras is barely 4.2 years), which is the prerequisite for admission to higher education. The data available show that in general the poor do not benefit sufficiently from the educational services. In the poorest regions the rate of illiteracy is higher, the coverage of different levels is lower, rates of dropout, repetition and pupil/teacher ratios are higher, and the cost per pupil lower. All this affects attainment of the targets established in the National Plan of Action.

68. The most vulnerable and run down sectors at the beginning of the period of fiscal adjustment (1990-1993) were health and labour. As from 1994 there was a decline in the relative share of education in overall social spending, in favour of expenditure on the health sector, which presents a significant increase in the last year of the period under analysis (1995). This increase is reflected in a greater share of GDP (2.7 per cent in 1990 and 3.0 per cent in 1995), in health expenditure as a proportion of central government spending (from 10.4 per cent to 13.4 per cent) and as a percentage of actual social expenditure (from 34.1 per cent to 38.4 per cent).

69. In spite of the increase in per capita expenditure on health (from US$ 18.9 in 1990 to US$ 21.5 in 1995), it must be pointed out that there are serious problems of sufficiency, inefficiency and inequity in the allocation and management of expenditure to achieve the objectives set out in the National Plan of Action and in the actual sectoral plans. Notwithstanding the substantive

improvements achieved in the basic indicators of health, national averages conceal the existence of great gaps between different sectors of the population of Honduras.

70. Although the distribution of health expenditure by programmes shows an important reduction in the proportion spent on hospital care (from 40.1 per cent in 1990 to 28.5 per cent in 1995) and an increase in the share of the communicable diseases control programme (from 18.9 to 22.4 per cent), the health sector continues to put the emphasis on tertiary care in the urban areas, to the detriment of the rural areas. This is without reference to the transfers made to the Autonomous National Water Supply and Sewerage Service (SANAA) which carries out work mainly in the urban areas and mostly in the capital of the country.

71. Although the country appears to have sufficient health infrastructure, obviously the poorest population does not have access to basic services. The worst health conditions are in the rural areas where most of the poorest people of the country are concentrated, for example, antenatal controls and institutionalized childbirth are less frequent in the rural areas whereas in the urban areas most normal births take place in public hospitals (National Epidemiological and Family Health Survey, 1996). Inequity in the distribution and management of the public health budget can be observed in the little capacity for response of the network of services at different levels of care, which in turn translates into problems of inefficiency.

72. In general terms, it may be said that there has been a slight improvement in the degree of allocation of expenditure (27.3 per cent in 1991 and 33.4 per cent in 1995); nevertheless, the results are also lower than the level recommended as adequate by the UNDP (40 per cent). For social priority expenditure (percentage of social expenditure for preschool and primary school education plus spending on primary health care), the indicator is in principle positive for while the UNDP recommends a minimum of 50.0 per cent, the country has maintained a ratio of 53.2 per cent. The indicator for expenditure on human development (2.7 per cent in 1990 and 4.0 per cent in 1996) also shows that Honduras is still well below what is recommended by the UNDP (5 per cent) as necessary for a country to raise the level of human development, so that, given the economic conditions of the country, efforts to raise those indicators need to be accompanied by a parallel improvement in the efficiency of expenditure in the social sectors.

73. Implicit in this analysis is the challenge that must be taken up by the government in implementing policies and strategies that promote greater equity and efficiency in the provision of social services. As we have already said, in addition to the problems of the efficiency of social expenditure, it is necessary to consider the question of its sufficiency for the attainment of the general and specific objectives expressed by the government in the National Plan of Action for Human Development, Children and Youth, for if and when there is improvement in the efficiency of expenditure in the social sectors, there are still many programmes and projects that will require additional financing.

74. The complexity of social problems means that it is essential to identify and apply mechanisms that make for rationalization of social expenditure, which means reallocation within the sector, redesigning of programmes, redefinition

and application of local programmes, promoting and facilitating participation of the community in the resolution of social problems. The financial resources of the State of Honduras are very limited, so that it is urgent to improve the returns on social expenditure, as well as to identify new sources of financing, especially for education, health, water and sanitation, and the rights of children.

COMMENTS ON THE OBSERVATIONS AND RECOMMENDATIONS OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

75. The concluding observations of the Committee on the Rights of the Child on the initial report of Honduras are to be found in document CRC/C/15/Add.24.

76. The State of Honduras welcomes the valuable exercise consisting in the presentation of periodic reports to the Committee on the Rights of the Child. We consider that this process strengthens understanding between a universal system of monitoring for the respect of children's rights and a national and local system for the comprehensive protection of children, as well as opening a dialogue between the government and civil society on the progress made and obstacles encountered in regard to: (a) existing measures, (b) measures adopted, (c) progress made, and (d) the difficulties that may so far have affected progress in regard to policies and concrete actions to translate the terms of the Convention into reality in the country.

77. We welcome the clear understanding formed by the Committee regarding the situation of children in Honduras and we are grateful for the suggestions and recommendations made to the State and society of Honduras to bring about comprehensive welfare for children.

78. In preparing this second report to the Committee exact details will be given of the progress, obstacles and national strategies so far adopted by the State party.

A. Progress made in social policies and the harmonization of legislation on the basis of the Convention on the Rights of the Child

79. Honduras signed the Convention on the Rights of the Child on 31 May 1990 and the National Congress ratified it on 24 July of the same year. By this act the text of the Convention became part of the domestic legislation applicable in Honduras in accordance with its Constitution which confers on treaties and conventions the same validity as is possessed by any law in Honduras.

80. The Convention has proved its specific nature in the context of international instruments for the protection of human rights. The Convention has ceased to be an instrument that is strictly juridical in its scope and its aim to transform its purposes into social policies and the integrated development of children has been understood. Thus, like the Convention, the World Declaration and Plan of Action of the World Summit for Children have served as the basis for important reforms in Honduras, at least on two fronts:

(a) Social policies

81. The Eleventh Central American Summit on human development, children and youth, held in Tegucigalpa in 1991, adopted the regional commitment that every country would implement national plans of action for children. The central proposition was to systematize the information available and periodically review progress towards the attainment of targets.

82. At the Fifteenth Meeting of Central American Presidents, held in El Salvador in 1995, a new declaration was signed, marking political decision at the highest level to fulfill targets by the year 2000.

83. As a result of the National Plan of Action in Honduras, at least, targets have been established in health, nutrition, education, access to drinking water and sanitation, among other things of vital importance, underlining the government's commitment to envisage children's rights in an interdependent manner and in harmony with the whole spectrum of civil and political and economic, social and cultural rights to which all human beings in Honduras are entitled without any form of distinction.

84. Honduras reaffirmed the commitments undertaken at the World Summit in the Nariño Agreement in 1994, which reaffirms the commitments assumed in regard to human development, children and youth, and above all to strive to combat poverty and reduce inequalities.

85. In June 1993 these national targets were brought to all municipal governments in what is known as the "Covenant on children", a document bringing together 289 mayors (of the 293 in the entire territory) and the constitutional President of Honduras himself. In this historic document the same targets are established as in the national plans of action and provision is also made for the appointment of a municipal children's advocate, whose tasks fall within the framework of monitoring and surveillance of respect for children's rights in local development policies and the promotion of participation and community mobilization around the rights of children.

(b) Harmonization of legislation

86. The ratification of the Convention in Honduras gave rise to a process of promotion and defence of the specific rights of especially vulnerable sectors such as women, ethnic groups and children. The political violence in Central America in the decade of the 80s did not permit civil society to advance in the conquest of economic, social and cultural rights. This phenomenon did not permit the emergence of groups in civil society promoting the rights of children until the end of the last decade and the start of the present decade, coinciding with the adoption of the Convention on the Rights of the Child.

87. At the end of 1993 the national methodology was adopted for the elaboration of Minors Code, resulting in a highly participative process perceived as such by NGOs and international agencies. In this process the entire national legislation was reviewed and contributions from civil society on the social, cultural and economic situation of children and families in Honduras were incorporated into a preliminary draft of the Minors Code in 1994. This process culminated in 1996 when the National Congress of Honduras adopted Decree

No 73-96 of 5 September 1996 creating the Code on Children and Adolescents, based on the harmonization of legislation with the Convention on the Rights of the Child of 1989.

(c) Progress

88. The main advances in accordance with the observations and recommendations of the Committee on the Rights of the Child include the following:

89. At the constitutional level, the post of National Commissioner for Human Rights was endorsed by means of a reform of the Constitution. Decree No 191-94 of 15 December 1994.

90. The Law against domestic violence was adopted.

91. Compulsory military service was abolished by means of constitutional reform. In Honduras, military service is henceforth voluntary and the practice of compulsory and educational proscription has been dropped. It is also guaranteed that admission to the Armed Forces will not be initiated until the age of eighteen.

92. Honduras has abolished reference to compulsory conscription for military service in the Constitution as well as ordinary laws; in the reformed texts this will now be voluntary, educational and humanist. In accordance with the reformed text:

> "Citizens between the ages of eighteen and thirty years shall undertake military service on a voluntary basis in peace time, in a system that is educational, social humanist and democratic. The State shall have the faculty to call up citizens in accordance with the Law on Military Service. In the case of international war all citizens of Honduras capable of defending and serving their country shall be counted soldiers."

Citizens who are forcibly detained for military service shall have legal recourse or may complain to the national ombudsman for the protection of human rights.

93. The Code on Children and Adolescents has been adopted. This is a historic development in Honduras, which has for the first time in its legislation a special law on children. This Code is a faithful reflection of the principles of the Convention on the Rights of the Child which has been signed by Honduras. It outlines in detail the system of social policies, the declaration on the rights of the child, the bases and principles of the new system of special justice for children with all the guarantees of due process for arrest, committal, trial and systems of rehabilitation and resocialization.

94. The new legislation is in accordance with the Convention in establishing ages and other international norms, for example: the age of eighteen is the cut-off to determine who is a child; the minimum age for employment is fourteen years; the age of imputability is twelve years; the age for the special system of children's justice is twelve to eighteen years; taking into account their maturity and ability to form their own judgement children in general and without

discrimination shall be able to exercise all the fundamental rights they are recognized to enjoy; the primary responsibility of parents or guardians for their guidance, care, orientation and protection; the elimination of all discriminatory provisions of the doctrine of irregular situation which are replaced by the new principles of the doctrine of integrated protection; the separation of the system of justice from the administrative system guaranteeing a system of opportunities for children at social risk; in general, the new legislation guarantees an approach based on children as subjects and not as "objects" of the law.

95. The administrative machinery responsible for social policies on the rights of the child has been reorganized, with the transformation of the National Social Welfare Board (JNBS) into the Honduran Institute for Children and the Family (IHNFA).

96. The process for seeing through these institutional reforms is fully detailed in this report. It is hoped that the National Congress will adopt the new law on the IHNFA on the basis of the quality of the new programmes already functioning under the JNBS.

97. Opportunities for care include: mothers in solidarity, families in solidarity, fellowships and subsidies, adoptions, provision for the disabled and a prosthesis bank with an initial coverage of 1600 boys and girls in the Department of Francisco Morazán and Valle. The novelty of these forms of care consists in:

- Care and protection of children at social risk outside internment institutions and in the community.
- Taking children off the street and offering them a chance to participate in a productive environment.
- Care for the biological family so as to get children back into their homes.
- Giving national society an opportunity to contribute to the solution of the problems of follow-up in the community.
- Giving young people the opportunity to extricate themselves from behaviour conducive to the repetition of their family's past mistakes.
- Inclusion of vocational training workshops to build on their potential abilities and skills.
- Provision of special apparatus and examinations for the physical and mental rehabilitation of the users.

98. In this intervention process, it is attempted to the extent possible not to separate children from the family nucleus, and where this has to be done, it will be a temporary solution until the situation giving rise to the separation has been overcome. This programme is conceived to be the execution of social

action in favour of the child on the part of the family and the community of the State, in which the higher interest of the child is paramount.

99. Follow-up to the targets of the National Plan of Action (NPA): Honduras has maintained strict monitoring of the targets set in the NPA on the basis of the World Declaration and Plan of Action of the World Summit for Children in 1990. This has borne fruit in the national reports of 1994 and 1997 on progress in the implementation of the commitments undertaken at the Eleventh Central American Summit. 10/ These reports are based on systems for the collection of statistical data on the situation of children in regard to health, education, the environment, etc, undertaken by the State or the State Secretariats in their respective domains. The present country report is based on the data contained in these reports. However, they do not contain criteria for assessment of the rights of children or others giving a fuller and more integrated vision of the principles of the Convention. This is the case for children with disabilities, street children, child labour, etc.

100. Follow-up to the Covenant on Children: The Secretariat of the Interior and Justice, the Commissioner for Human Rights, the Ministry of Health, the Technical Secretariat for Cooperation, the Ministry of Labour and the Ministry of Education, inter alia, and several NGOs have given support for the attainment of the targets of the NPA at the municipal level. The Secretariat of the Interior and Justice has a department of support to the operationalization of the Covenant on Children.

101. Consolidation of the work of the municipal children's advocates: This same intergovernmental structure has given support to municipal departments for the defence of children at the national level. It is estimated that nearly 80 per cent of the country's municipalities have a municipal advocate to defend the rights of children. The unit supporting the municipal advocates has carried out training at the national level, with support from the Commissioner for Human Rights, UNICEF and NGOs.

102. The advocates have formed associations or boards of directors at the departmental level to plan, exchange experience and consolidate their work for the rights of children in every municipal headquarters. Several national, departmental and regional meetings have been held for this purpose. It is considered that these officials have gained confidence in their respective communities and that their work of monitoring and surveillance of respect for the rights of children is gradually being consolidated.

103. The social welfare systems such as the Honduran Social Investment Fund (FHIS) and the Family Allowance Programme (PRAF) have drawn a map of poverty in the country with a view to giving priority attention to the provision of basic services in the most needy areas.

10/ The first official report is the Report on Human Development, Children and Youth: First Follow-up and Evaluation Report of the National Plan of Action, Tegucigalpa, Planning, Coordination and Budget Secretariat, 1994, and the National Plan of Action for Human Development, Children and Youth: Report on Progress towards Mid-Decade Targets and Perspectives for the Year 2000, Tegucigalpa, 1997.

104. Honduras has tried to renegotiate conditions for the repayment of its external debt, but with little success, and is seriously affected by this since it has to devote nearly 40 per cent of its national income to debt, which has a negative impact on possibilities for social investment. Nevertheless Honduras has managed to attain a national target of devoting 35 per cent of its income to the social sector.

105. Honduras is operating a national programme to establish title deeds to land in rural sectors where peasants have had no access to land. This programme is being run by the National Agrarian Institute. The allocation of land is not, however, as extensive as is desired and there is social demand because entitlements are being given strategically to women heads of households and to minors under the age of eighteen. The Law on the Modernization of Agriculture is the law in force in agrarian matters.

106. With the approval of the Organizational Law on the National Commissioner for Human Rights and the law on the IHNFA conditions are foreseen for better coordination at the national level to disseminate and ensure compliance with the principles of international and national norms on the rights of children.

107. To combat discriminatory social practices towards the enjoyment and full exercise of the rights of women and vulnerable social groups, vitally important national legislation such as the Penal Code is being reformed and new laws, such as the Law against Domestic Violence, are being passed.

108. The Ministry of the Interior and Justice have conducted a national campaign for the registration of children. This is to combat the failure of parents to fulfill their duties and improve the services provided by the National Register of Persons. This will guarantee the primary right to a name and the other rights deriving from it. The National Social Welfare Board (JNBS) maintains a system of documentation on all its entrants or beneficiaries.

109. The new Children's Code regulates and reforms the obsolete procedure for adoptions. It is harmonized in accordance with articles 3, 12 and 21 of the Convention.

110. The health system has included issues such as sexual violence, domestic violence, ill treatment of children, etc, through the strategy of opening family counselling services in each health region through the health centres. This provides for sex education, family guidance, schooling for parents, psychosocial support for couples, family reintegration, rehabilitative treatment of victims and perpetrators of ill treatment of children, preventive education policies, and family planning policies through the Honduran Family Planning Association (ASHONPLAFA).

111. The Secretariat for Education has carried out a reform of its administrative machinery. It has been strategically structured into departmental directorates of education, so that the administration and provision of services will follow the principles of legality, responsibility, efficiency, rationalization, coordination and simplification. It is hoped that the coverage of the services will improve, with adaptation to the regional needs of the country and improved effect on the shortcomings detected, such as dropout,

repetition, low enrolment levels, school infrastructure, training of teachers, inter alia.

112. In accordance with national policy for "morazanic schools" it is hoped to make radical changes to the educational system. One of these is the promotion of school governors and a participative environment in the classroom in which children participate in the pedagogical approach and contribute to the school atmosphere.

113. The special system of children's justice obeys the principles of the Convention on the Rights of the Child and related international texts. The new Children's Code introduces substantial changes; proceedings are now verbal at hearings that may be public or private depending on the case and have all the formalities and guarantees of due process. The coverage of the system in the country has gradually increased with the opening of new children's courts.

114. From two children's courts (Tegucigalpa and San Pedro Sula) when the first country report was submitted, five more courts have been created, giving priority to the towns with the most inhabitants: Santa Rosa de Copán, El Progreso, La Ceiba, Juticalpa, Choluteca.

115. The Ministry of Labour, in an intergovernmental intervention including officials of the Office of the Commissioner for Human Rights and the Office of the Procurator for Human Rights and Children, in conjunction with several NGOs, and on the basis of international reports on the abuse of workers in the garment industry, is strictly monitoring the treatment of garment workers on a permanent basis.

116. In regard to specific legislation on refugees, there is now an intergovernmental commission and with the participation of NGOs and UNHCR a bill is being drafted to determine the status in accordance with the Convention Relating to the Status of Refugees of 1951 and its Protocol of 1967. The first draft is currently being revised prior to submission to the Legislative Chamber.

117. To give effect to the eradication of child labour established in International Labour Organization Convention No 138, Honduras has signed a Letter of Understanding annexed to a national plan with the ILO and UNICEF, under the coordination of the International Programme on the Elimination of Child Labour (IPEC).

118. Creation of the Office of the Special Procurator for Children and the Disabled: this is one of the special offices of the Public Prosecutor's Office existing since December 1994 and its function is to carry out the actions foreseen in the laws on the protection of minors, the disabled and handicapped, and they have been organized and are functioning in accordance with the resources available to the institution.

119. Initially, the Special Procurator's Office dealt with the cases of children who were victims of common crime, taking penal action against their victimizers and also taking part in proceedings under the Law on the Jurisdiction of Minors in cases where children infringed laws of a penal nature. At present, we continue to hear all the charges for offences committed against children that are brought to our knowledge, and these are investigated in the

shortest time possible and the corresponding criminal proceedings initiated and brought to conclusion in a definitive sentence. In addition to these cases, we are also hearing charges in relation to penal offences committed by minors under the age of 18 brought by citizens, in accordance with the provisions of the Code on Children and Adolescents, that has been in force since 5 September 1996.

120. The Office of the Special Procurator for Children and the Disabled has its headquarters in the city of Tegucigalpa and its staff comprise a group of six prosecuting attorneys (including the titular head) and twelve investigating officers, divided into two groups which deal with juveniles who break the law and juveniles who are victims of crimes. At present there are no regional offices in the interior of the country; actions relating to children in these places are carried out by attorneys assigned to the various towns of the country, with supervision and counselling to the extent possible from the Office of the Special Procurator.

121. The Office of the Special Procurator for Children and the Disabled has the following general functions:

- To represent, defend and protect the general interests of society.
- To collaborate and be vigilant to ensure rapid, correct and effective administration of justice, especially in the juvenile sphere.
- To be vigilant to ensure respect for and compliance with constitutional rights and guarantees and respect for the Constitution itself and special laws for the protection of minors and the disabled.

and the following specific functions:

- To present cases with formal accusation on behalf of minors who have been the passive subjects of private offences, who may not have protection from justice on account of the negligence or poverty of their parents or legal representatives. To exercise all the actions foreseen in the laws for the protection of minors and the disabled.
- To issue forensic reports, opinions or comments in cases where indicated by the law and regulations.
- To bring penal actions *ex officio* in juvenile proceedings where required under the special law on minors.
- To ensure prompt, expeditious and proper administration of justice and that the laws are faithfully applied in the courts and tribunals of the country in criminal proceedings and proceedings to do with public order and public morals.
- To direct, guide and supervise the activities of the criminal investigation police, and the activities for which the forensic medical services are responsible.

- To formulate reports to the appropriate instance against magistrates, judges and other officials and employees of the judicial power when they commit infringements that give rise to disciplinary sanctions.
- To promote the necessary actions to ensure that the civil, penal, administrative or disciplinary responsibility incurred by officials or public civil or military employees in the exercise of their functions or in the course of their work is effectively assumed.
- To work with the NGOs that work with children, and with the National Social Welfare Board, the Office of the Commissioner for Human Rights, the National Judicial Power of the Ministry of the Interior, the Ministry of Health, and others.

B. Difficulties encountered

122. Finally, as a State party Honduras would like to mention that it has devoted the maximum available resources to priority pursuit of public social policies for children and young people. Nevertheless the challenges of extreme poverty, deterioration of the environment, conception of a special system of rehabilitation, re-education or resocialization of children who break the law, street children, insecurity in the cities, the abolition of child labour and other problems arising out of the economic crisis and poverty are all challenges that call for international solidarity.

123. Compliance with the rights of children depends to a large extent on social entities such as the family, schools, community organizations and government attention to social policies.

124. As will be confirmed by reading this report, the economic contraction resulting from reforms of the economic system and the payment of a crushing external debt, considerably reduces the possibilities for priority attention to human development. Poverty in its various forms directly affects all rights, from those of the first generation through to economic, social and cultural rights.

125. Thus there have been additional difficulties, on the one hand, the lack of an authentic social policy bringing together and systematizing the different aspects of education, health, housing, culture, employment, participation, recreation and organization. On the other hand, an important obstacle to the realization of the rights of girls and boys has been the absence of any strategy to combat poverty that goes beyond the positive but ephemeral effect of actions of social compensation. In this respect, the National Plan of Action does not succeed in being sufficiently operational.

126. In spite of this, Honduras is proud to report substantial advances in democratization, legislation, human rights, the system of justice, the social policies and administrative systems responsible for the issue and close relations between civil society and the State. As a State party, Honduras reaffirms its commitment to continue this type of effort and promulgate to the extent it can the fruitful results of the dialogue between the International Committee and the State party.

127. Honduras therefore invites the Committee to visit different governmental and nongovernmental bodies to confirm the progress made and obstacles encountered (a) with existing measures; (b) with measures that have been adopted; (c) the progress that has been made; and (d) the difficulties that have so far affected progress with regard to policies and concrete actions to translate the norms of the Convention into reality in the country.

CONTENTS OF THE REPORT TO THE COMMITTEE ON THE RIGHTS OF THE CHILD IN ACCORDANCE WITH PARAGRAPH 1(b) OF ARTICLE 44 OF THE CONVENTION ON THE RIGHTS OF THE CHILD

128. Honduras submitted the initial report (CRC/C/3/Add.17) due pursuant to paragraph 1 of article 44 of the Convention on the Rights of the Child to the Committee through the Secretary-General of the United Nations, in accordance with the terms of that article. This second report gives information on the application of the Convention during the period 1992-1997.

129. Honduras agrees with the Committee that the process of preparing a report for submission to the Committee provides an important opportunity to conduct a comprehensive review of the various measures undertaken to harmonize law and policy with the Convention and to monitor progress made in the enjoyment of the rights set forth in the Convention.

130. Honduras reaffirms its commitment to compliance with international treaties and conventions on human rights and especially on vulnerable groups or sectors, and reaffirms its commitment to respect and ensure observance of the rights enshrined in the Convention and that this process serves as an essential vehicle for the establishment of a meaningful dialogue between the Committee and the State of Honduras.

I. GENERAL MEASURES OF IMPLEMENTATION

131. Honduras signed the Convention on the Rights of the Child on 31 May 1990 and upon ratification by the National Congress on 24 July 1990 it became part of the law applicable in Honduras. The State of Honduras did not enter any reservation to the text of the Convention.

A. Harmonization of national legislation and policy with the provisions of the Convention

132. Honduras, in one of the legislative processes that has secured greater participation by civil society, adopted the National Methodology for the elaboration of the Code on Minors. Thus by Executive Decree 42-93 of 10 September 1993 it appointed the National Coordinating Commission on the Rights of the Child, an intergovernmental entity with representation of several sectors of civil society and boys and girls, with responsibility for coordinating, directing and planning the elaboration of the draft Code on

Minors, which was to harmonize national legislation with the principles of the Convention on the Rights of the Child. 11/

133. The process produced one of its first fruits in a psycho-socio-legal analysis of the situation of children in Honduras, and a juridical analysis of legislation on children currently in force in Honduras was also published. The latter document served as a basis for the harmonization of national legislation with the principles of the Convention, reformulating principles that were in contradiction to it. An example that may be quoted is in articles 284, 285 and 286 in Title II in the single chapter of the final provisions and transitional clauses of the Code on Children and Adolescents now in force in Honduras.

134. Our Constitution of 1982 establishes that Honduras is committed to the principles and applicability of treaties and conventions, which become part of domestic law once they have been signed and subsequently ratified by the National Congress. When a treaty or convention is in contradiction with the Constitution it will be necessary to follow the same procedure for ratification as is required for amendment of the Constitution; where the international instrument is in contradiction with secondary legislation, then the treaty or convention takes precedence over the latter.

135. Article 3 of the Code on Children and Adolescents establishes the sources of the law applicable in Honduras, which include the Convention on the Rights of the Child and the other treaties and conventions of which Honduras is a signatory. This empowers all authorities and all petitioning citizens to use the Convention or other similar treaties as a basis for their proceedings. As a result of this process the Code on Children and Adolescents was published on 5 September 1996 in the official daily newspaper *La Gaceta* (Decree 73-96 of 5 September 1996), and this is a modern piece of legislation in line with the principles of the Convention on the Rights of the Child of 1989.

136. The Law on the Honduran Institute for Children and the Family (IHNFA) is also pending submission to the National Congress. This institution will have responsibility for the formulation and implementation of social policies relating to children in Honduras.

137. The series of rights enunciated in the Convention on the Rights of the Child is duly governed in domestic law and in the context of the international instruments of the United Nations system and the inter-American system for the protection of human rights (see index of international instruments to which Honduras is a signatory).

138. At the domestic level, as the Committee has been informed, there is a wide range of relevant legislation. Recently with the adoption of the Code on Children and Adolescents (Decree 73-96) the process of harmonization of the law with the principles of the Convention on the Rights of the Child has reached an acceptable level. However, it must be acknowledged that revision of other codes

---

11/ Towards a new law for boys and girls. Centre for Research and Promotion of Human Rights (CIPRODEH). Editorial Guardabarranco, Tegucigalpa, Honduras, 1996. p.45 et seq.

and laws in force in Honduras is a necessary step for consistent harmonization of the law with the principles of the Convention to be achieved.

139. As to whether it is possible to invoke or lay claim to direct application of these principles before the judicial or administrative authorities, this is indeed a concrete possibility since the text of the Convention on the Rights of the Child, like other international texts, is applicable as law and hence effective and valid.

140. In accordance with article 16 of the National Constitution the Convention on the Rights of the Child once ratified by the State of Honduras becomes part of domestic law and all its provisions are valid and applicable throughout the national territory. Our Constitution draws its inspiration from international norms on the rights of the child. Articles 119 to 126 establish the guiding principles in this domain.

141. With regard to the possibility of invoking the contents of the international Convention before judicial, administrative and legislative authorities, it is established that as such contents are part of domestic law they have force of law and any citizen may invoke them, while any authority must be vigilant to ensure strict compliance. In cases where the Convention is in conflict with any other law applicable in Honduras, the conflict shall be resolved as follows: in accordance with the principle of hierarchy of legislation set out in articles 17 and 18 of the currently valid Constitution, if a treaty is in conflict with the Constitution, then the procedure for constitutional reform (article 17) must be followed to ratify that treaty. This was not the case for the Convention on the Rights of the Child.

142. If there were to be a conflict between the Convention and a secondary law, then the treaty or convention shall take precedence (article 18 of the currently valid Constitution).

143. The Code on Children and Adolescents provides for the possible conflict between laws in its article 4. According to this article, application by competent bodies of provisions relating to children shall be made in accordance with the following hierarchical order:

- The Constitution of the Republic;
- Treaties or Conventions referred to in paragraph 2 of the preceding article;
- The present Code;
- The Code on the Family;
- Other general or special laws which are not opposed to what is specified in the present instrument;
- The regulations of the laws referred to in the preceding subparagraph;

- Jurisprudence established by the Supreme Court of Justice in matters relating to children; and

- The general principles of law.

144. Since the last report was submitted the legislation of Honduras has undergone some important changes in an effort to harmonize it with the principles of the Convention. 12/ In this section the Committee will have the opportunity to be acquainted with the main developments in legislation. The Convention on the Rights of the Child being the minimum ethical and juridical norm which states parties may translate into their own legislation or further develop, we set out below the substantive principles contained in our legislation. We describe the legal framework and the general principles of our legislation on the rights of children.

145. The Constitution of the Republic: This is the fundamental framework for the ordering of the law applicable in Honduras. It contains an ample description of fundamental rights in its three generations of civil and political rights; economic, social and cultural rights, and the rights of peoples or communities. On the rights of children it has a special chapter which provides that:

- It is a primary duty of the State of Honduras to protect and care for children.

- Boys and girls shall be guaranteed the protection foreseen in international agreements or treaties.

- Laws relating to children shall have the character of laws on public order. This means that they shall be irrenunciable, non-transferable, imprescriptible and intransigible.

- It is necessary to contemplate special laws for children at social risk, especially children with disabilities, abandoned children, children with irregular behaviour, etc.

- Priority care shall be given by the parents or guardians of children and if they do not have sufficient resources, the State shall create and provide special services of care and protection.

- Parents who do not have sufficient resources shall enjoy priority in opting for public posts or employment.

- A special jurisdiction is created and operated for children who break the law and for families.

- It shall not be permitted to admit minors to prisons for adults.

12/ See annex on the comparison of national law and the principles of the Convention on the Rights of the Child attached to this report.

- All children shall enjoy the benefits of social security and education.

- Children with the help of the State shall enjoy all the necessary conditions for integrated development and shall have pre- and postnatal health care and access at every stage of their development to services of housing, education, health, recreation, sport, nutrition, etc.

- Protection against abandonment, cruelty and exploitation.

- Child labour shall be prohibited under the minimum age (14 years) since it may damage their health and education or hamper their physical, mental or moral development.

- The use of children for begging shall be prohibited.

- The role of the communications media in the upbringing and education of children.

- All children shall in any circumstances be among the first to receive relief, help and protection. [13]

146. International conventions and treaties to which Honduras is a party: see the annex with the list of international instruments on human rights to which Honduras is a party.

147. The Code on Children: This has totally transformed the legislation on children in force in Honduras. For the first time in the history of national legislation, a special law has been enacted with the scope of this Code on Children, based on the doctrine of integrated protection which replaces the doctrine of irregular situation.

148. The preventive nature of this legislation and its promotion of universal policies on children and adolescents based on the family, school and community make it a doctrinal and juridical guide that will serve as the basis for the constitution of a system of opportunities for all children in Honduras. This legislation contains a broad declaration of rights and freedoms and in the area of the protection of children it has three basic thrusts: (a) the preventive protection of children; (b) the protection of children at social risk; and (c) children who break the law.

149. Finally, the Code develops all the institutional aspects that detail the institutions to be responsible for ensuring the prevention, registration, monitoring, treatment and rehabilitation of children at social risk or in conflict with the law. It should be mentioned that children's law does not have a code of typical sanctions for breaches of the law; while the Penal Code for adults may be used to typify the offences to which sanctions are applicable, a

---

[13] Our Constitution dates from 1982 and already contains such important concepts as this, largely prefiguring the principle of the higher interest of the child, enshrined in article 3 of the Convention.

different system of sanctions will obviously be applied, and with the same guarantees of due process for the law breaker.

150. The Family Code: This is the special legislation that governs relations between parents and children in the matter of reciprocal rights and duties and provisions governing the patrimonial aspect of marriage. The Family Code provides for such legal institutions as alimony, proper exercise of parental authority, adoption, marriage, family patrimony, guardianship, curatorship, filiation, etc.

151. The Code on Children contains provisions that reinforce or modify these contents to make them more expeditious, as for example the reform of the procedure for claiming alimony, where anyone who has first established filiation may apply verbally for maintenance without any formality and the judge is obliged *ex officio* to follow through such a claim. The different variants of full adoption and semi-adoption have also been abolished. Now only full adoption is possible, and the child is incorporated into the adopting family with all the rights of the child.

152. Reforms of the Penal Code: In the process of modernization of applicable national legislation the Penal Code was reformed as detailed in tne following paragraphs:

(a) In the penal reform it was expressly stated that all persons facing proceedings have the right to be treated with the respect due to their inherent dignity as human beings, so that no punishments or security measures involving inhuman or degrading treatment should be imposed upon them.

(b) The reforms broaden the traditional definition of malice to cases where the result corresponds to intentional commission or where the author knows or can be expected to know that as a result of an action or omission there is the possibility that damage that can be qualified as an offence will occur, and nevertheless commits the act and thus accepts the consequences stemming from it.

(c) The discretion of the judge is reduced to determine within minimum and maximum limits the penalty applicable in sentencing an offence.

(d) It is made clear that when an offence or minor offence can be qualified in two or more ways, it is the special norm that shall prevail.

(e) The principle is underlined that no punishment or security measure may be imposed if the illicit action or omission does not damage or effectively jeopardize a legal right protected by penal law.

(f) A principle of balance is established: punishments and measures of security shall only be imposed when necessary and in proportion to the seriousness of the act committed.

(g) When a pregnant woman is the active subject of an offence and the prison centre is not adequately equipped, the punishment shall not be deprivation of liberty or preventive custody, but six months following the birth of the child. In this case the sentence may be executed in the woman's home.

(h) Express pardon as a means of extinguishing penal responsibility shall not be applicable for the crime of rape or for offences committed against minors under the age of eighteen.

(i) In offences or minor offences of a private order in which the victim is a minor (under the age of eighteen) or is incapacitated, express pardon may be rejected on reasoned grounds. The Code on Children and Adolescents previously in force rejected the efficacy of the express pardon for persons in breach of the rights of a child.

(j) Public action is also established for the following offences:

- rape with violence or threats;
- indecent assault;
- corruption, prostitution and traffic in persons;
- incest (when the victim is under 14 years of age or has no legal representative)
- refusal of family assistance;
- intrafamiliar violence.

In these cases the judge may act *ex officio* or at the request of the Public Ministry.

(k) The reforms of the Penal Code bring in new offences, for example, the offences of torture, sexual harassment, etc.

(l) Other offences are treated and described differently: for example, there is a new definition of abortion, rape, etc.

(m) Punishments have also been increased, so that actions or omissions qualified as offences are punished more severely: for example, the crime of rape is sanctioned with 9 to 13 years of imprisonment, and if the victim is under 7 years or over 70 years the sentence will be 15 to 20 years.

(n) The new offences incorporated into the Penal Code include:

- The crime of torture;
- The extradition of Hondurans;
- Intrafamiliar violence;
- Sexual harassment;
- A chapter on offences against the environment;
- Express regulation of theft of motor vehicles, aircraft, ships and like assets;
- Offences against industrial property, etc, are also included.

153. Abolition of compulsory military service: Following a constitutional reform, military service in Honduras is voluntary and educational. This precept adopted in 1995 has been successful in application in Honduras. The practice of recruiting young people in the streets and public highways has ceased.

154. In the past the practice of forcible recruitment violated several human rights of both children and adults: the right to free circulation, the right to security of property, the right to physical, mental and moral integrity, the

right to education, etc. Honduras is now one of the few states that has achieved this important democratic advance in the hemisphere. See the introduction in detail.

Other principles in force in legislation

155. Other principles central to the rights of the child are also clearly established and stated:

156. Definition of the child: This uses the same terms as the Convention on the Rights of the Child and is contained in article 1 of the Code on Children and Adolescents. A child is a boy or a girl under the age of 18 years. With the proviso in article 12 that unborn persons are protected in Honduras, the margin of protection extends back to the moment of conception.

157. Principle of legality: In Honduras no public official or authority of any kind may carry out acts contrary to the law or place themselves above or outside the law without incurring civil, administrative or penal responsibility, as the case may be.

158. Principle of non-discrimination: Equality before the law, juridical equality of both spouses, universal application of the rights and freedoms recognized in the legislation to all human beings. Not to be the object of different treatment with exclusion or discrimination based on belonging to a social group, skin colour, membership of a political or religious group or any other ground.

159. Principle of identity: The right to a name and identity that includes the inherent right of the boy or girl to know who his or her parents are and their racial and cultural origins.

160. Principle of the higher interest of the child: The priority of the rights of the child in the legislation now in force is conceded. This principle is contained in the Constitution in partial form and complemented by declaration of the various contents of a practical order in the Code on Children and Adolescents.

161. The right to life: The right of the unborn is recognized and protection of the right to life is guaranteed, including a variety of rights deriving from it to assure human beings of conditions for integrated development with dignity. Various declarations to this effect are enunciated throughout the legislation.

162. Right to development and survival: Derived from the understanding that fundamental rights are integral, interdependent and complementary, our legislation recognizes from our political Constitution the rights of all human beings without distinction of any kind to enjoy all the rights inherent to human beings to integral assurance of development and survival.

163. The right to be listened to and to have their opinions taken into account: In this respect a fundamental advance has been achieved for children with recognition for the first time of the right of all children - in keeping with their degree of maturity and development to form their own judgement - to be informed and heard in any proceedings or action instituted against them.

This principle was being ignored in practice in spite of being enunciated in the Constitution.

164. With the entry into force of the Code on Children and Adolescents, a fundamental guarantee of due process in any judicial or administrative proceedings is established in regard to:

(a) Civil rights and freedoms

165. Right to a name and nationality: Every child has the right to a name and a nationality. This right has existed *de jure* in our legislation but *de facto* ignorance of it is evidenced in the enormous number of unregistered children.

166. Freedom of expression, thought, association conscience and religion: All the fundamental rights recognized to children in the new legislation will be realised, the only limitation being the degree of maturity and ability to form judgements, the parents being encouraged to help them gradually to exercise all these rights.

167. Right to family privacy: Any act of interference in the family and private life of a child is punishable under the Code.

168. The right not to be the object of torture or cruel, inhuman and degrading treatment: The ill-treatment of children is one of the best developed chapters in this new legislation. Ill- treatment may consist in omission, transgression and suppression. Ill-treatment covers all possibilities of violation or failure to observe the rights of a child.

(b) Family care, paternal guidance and development

169. With regard to the duties of parents or guardians, the Code on Children reiterates the content of the Family Code on these precepts, and of the right to a family and not to be separated from parents or close relatives. The Code on Children extends the concept of the family and contains principles that strengthen family relations and family unity.

170. The right to have contact with both parents: The communication regime is duly covered in the Family Code. It is established by agreement with both parents or by judicial resolution, but it is a guarantee that all children in Honduras shall have access to both parents, except where this would be harmful to physical, psychological or mental integrity. The right to an adequate family environment for integrated physical, psychological, emotional and mental development is established. The Code on Children and the Family Code are complementary in their aim of achieving family unity.

171. The right not to be the object of illicit traffic: The new Code on Children strictly regulates exit permits for children and punishes illegal traffic in children.

172. Protection against all forms of abuse or negligence: The same provisions on ill- treatment are applicable as are regulated in the Code on Children and Adolescents, and the right to access to programmes of rehabilitation and family treatment to prevent ill-treatment. In it provisions on institutional

responsibilities the Code establishes the responsibility of the Ministry of Public Health and the National Social Welfare Board (JNBS) for the creation of programmes of prevention, detection, treatment and rehabilitation of the victims of child abuse.

173. The National Congress has recently approved the Law against domestic violence, which is considered to be a form of child abuse.

(c) Health and basic care

174. The following rights are established in this matter:

- The right to life;
- The right to development and survival;
- The right to the highest possible level of health;
- The right to special care in the case of disability;
- The right to social security.

(d) Education and recreation

175. The following rights are established:

- The right to an education;
- The right to recreation, sports and cultural activities;
- The right of access to each person's own culture and customs.

(e) Measures of special protection

(i) Children in situations of armed conflict and exposed to flight, and refugee children

176. An intergovernmental Commission is at present drafting a Bill to determine the status of refugees, their treatment and assistance. 14/

14/ Honduras is a party to the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967. The National Commission responsible for formulating the Bill to harmonize our legislation with the principles of this Convention is composed of the UNHCR, the Commission on Human Rights, the Centre for Research and Promotion of Human Rights, the Centre for Informatics and Legislative Studies of the National Congress, the Ministry of Foreign Relations and the Ministry of the Interior and Justice.

(ii) Children in situations of conflict with the law 15/

177. The most significant reforms of the period are in the field of special justice for children: the system of juvenile justice, and the system or regime of deprivation of liberty.

(iii) Children in situations of economic or other exploitation

178. Reforms have been made in the field of economic exploitation, sexual exploitation, exploitation through the use of drugs or psychotropic substances, and the traffic and abduction of boys and girls.

(iv) Children belonging to minority or ethnic groups

179. Following the transformation of our national legislation with the adoption of the Code on Children and Adolescents (Decree 73-96), Honduras has created seven children's courts in areas with the highest population. Before the new Code the children's courts were applying the law of the Jurisdiction of Minors, which was not in harmony with the principles of the Convention.

180. One of the courts of special justice for children with the largest territorial and population coverage in Honduras is the Second Court of First Instance on Children in Comayaguela. To illustrate the principal problems to the Committee some statistics of different types of offences are given below.

181. Number of new cases since the month in which the new Code came into force in the Second Children's Court at Comayaguela:

	Individual offences	Collective offences	Total offenders 16/
August	50	1	60
September	31	1	33
October	29	7	45
November	16	8	33
December	34	13	66
January 1997	34	12	59
February	27	9	58
March	59	7	81
April	52	14	99

15/ The new Code on Children and Adolescents has thoroughly transformed the special system of justice for children in conflict with the law. Now it is a system with guarantees and compliance with guarantees of due process. However, as in most countries, it is not autonomous and depends on the typification of offences of the adult Penal Code. The maximum punishment or sanction is eight years, and this is a verbal sentence that is transparent. It can be said that for the first time in its history the country has an adequate law in line with requirements for children.

16/ This section adds offenders of adult age to juveniles involved in the commission of these offences.

May	48	24	135
June	25	7	41
July	53	14	93

182. The majority of offences have to do with the sale of drugs, injuries, robbery, theft of cattle, theft, damages, rape. 17/

Robbery	311 cases
Sale of drugs	99 cases
Injuries	81 cases
Damages	80 cases
Theft of livestock	56 cases
Theft	46 cases
Threats	34 cases
Other	

183. The new system based on the Code on Children guarantees respect for the minimum guarantees of due process and is based on international standards relating to special justice for minors. In practice at the national level and according to data processed by the National Social Welfare Board (JNBS) in a recent period of study, of every 330 adolescents deprived of liberty only 5 per cent received correctional measures from the judges. Between 50 and 55 per cent enter and leave the educational establishments and the rest remain subject to precautionary measures for three months to one year.

184. Proceedings are oral and are conducted in the presence of the accused child, the judge, the procurator and a legal representative where one is appointed. Hearings are public or reserved as the case may be and the judge must appreciate the burden of proof and apply correctional measures, deprivation of liberty being the most extreme option applicable. It should be noted that judicial decisions based on the principles of the Convention and related international norms are not only applied in the children's courts but also in the family, labour and civil courts and wherever and when ever children are involved as parties to the proceedings, and at the level of public administration.

185. The children's courts are applying the new Code on Children which contains the principles of the Convention on the Rights of Children of 1989. The first legal proceedings under this Code were carried out in January 1997.

186. There are at the moment difficulties with applying alternative measures to the deprivation of liberty at the specialized centres for correctional measures. The government with the support of cooperation agencies such as the European Commission is working to put these programmes into practice. Already such measures have been tried as semi-liberty, assisted liberty, counselling and social support to the family, obligation to repair damages, warning, etc. See the section on children deprived of liberty and the new programmes of the National Social Welfare Board (JNBS).

17/ Data taken from the same court in Comayaguela for the months August 1996 to July 1997.

B. Remedies available in cases of violation of the rights recognized by the Convention

187. The remedies accessible to persons alleging that their fundamental rights have been violated, transgressed or ignored may be divided into non-jurisdictional systems of monitoring and protection and systems of jurisdictional protection.

(a) Systems of non-jurisdictional monitoring and protection

188. Office of the Commissioner for Human Rights: This Office was created to guarantee respect for the human rights of all persons in Honduras and since its inception it has been given the task of ensuring special protection for children. The Office has four regional delegations and twelve departmental delegations with adequate human and material resources to guarantee respect and compliance with the rights of children and other sectors that may be vulnerable.

189. Office of the Procurator for Children: The Public Ministry is a recently created institution and has opened the way importantly for the consolidation of democracy in Honduras. One of its areas of strategic intervention is children and it is vigilant to ensure application of the Code on Children in Honduras. The Ministry has in its Directorate of Criminal Investigation (DIC) an Offence against Minors Unit, an auxiliary body to the Office of the Procurator for Children assisting when there is a breach of the law.

190. Programme for the Public Defence of the Judicial Power: The Judicial Power has a programme of public defenders for those who need them, including children.

191. Legal Procurators of the National Social Welfare Board: This programme depends on the National Social Welfare Board and its function is to provide legal services to restore their rights to children at social risk. With the opening of regional offices it is hoped to expand this system at the national level.

192. Family counselling: Composed of various professionals including lawyers. Rather than denunciation, these instances are concerned with the restitution of rights and care, treatment and follow-up of children whose rights have been transgressed.

193. Labour inspectors: These are officials of the Ministry of Labour whose task is to ensure that there is no economic exploitation of child workers.

194. Municipal Children's Advocates: With support from governmental and nongovernmental sources these have been consolidated at the national level. Their present possibilities are limited, but their potential is very promising.

195. Non-formal system of protection and monitoring: NGOs in Honduras play an important role in monitoring and denouncing abuse committed against children. They also have legal defence services with duly trained law graduates. It must be mentioned that these instances cover most of the situations in which children may find themselves, for example, workers, support services based on gender differences, the environment, ethnic groups, etc.

(b) Systems of jurisdictional protection

196. The law provides the same resources and guarantees to any citizen when any right is violated, ignored or transgressed and defends them before the courts and tribunals:

- the remedy of amparo: to protect a right which has been affected by any act, law or provision of the government, with the aim of restoring it to its original validity.
- the remedy of habeas corpus or personal exhibition: a special form of amparo, protecting the rights intimately bound up with life, freedom and personal integrity, both physical, psychological and moral, when it is the authorities that have infringed these rights.
- the remedy of unconstitutionality: used in judicial proceedings, both by the parties damaged by some resolution or law and by the judge who may detect unconstitutionality in the particular case before him.
- the remedy of review: guarantee in civil and penal cases that may be reviewed at any time in favour of the party condemned.
- jurisdiction of administrative contention: an instance at the services of citizens who may bring their claims against the State before the Public Administration once the administrative procedure is exhausted.

C. Comprehensive national strategy for children in the framework of the Convention

197. Honduras as a signatory of the Convention and in pursuance of the World Declaration made at the World Summit for Children in 1989 has developed national strategies through the National Plan of Action, and there are other actions that have guided national action for the realization of the principles of the Convention. These strategies include:

(a) National Plan of Action (NPA)

198. The World Summit for Children held in the city of New York in September 1990 marks the start of a new order for the world's children. The World Declaration on the Survival, Protection and Development of Children was adopted at that time, marking a milestone in human development with its incorporation into the political agenda of the 71 Presidents and Prime Ministers and the official representatives of 88 other countries who took part in the Summit, giving priority to respect for the rights of children and undertaking commitments and specific targets to meet the minimum needs of the most vulnerable groups.

199. In regard to the commitment assumed at the New York Summit, the Government of Honduras organized the Eleventh Central American Summit on Human Development, Children and Youth in Tegucigapla in December 1991, with the central theme of promoting social policies to attain higher levels of human development, with

special emphasis on children and youth. As a result of this Summit, the countries of Central America elaborated their own plans of action for human development, children and youth containing the targets and strategies which the States of the Region undertake to attain by 1995 and by the year 2000.

200. In Honduras, the NPA was approved by the President of the Republic at a session of the Social Cabinet on 27 November 1991. It should be pointed out that in the last three years, 86 governments of developing countries have established national plans of action which are beginning to be implemented and have reached various different stages of progress.

201. Basically, the National Plan of Action (NPA-1990/2000) of Honduras considers the welfare and development of children and the most vulnerable groups to be a manifestation of solidarity and a priority commitment to be met in the current decade. So that this commitment does not relapse into mere rhetoric or declarations of intent, the NPA establishes concrete targets which, as well as serving as parameters for the establishment of guidelines for the pursuit of quantifiable objectives, act as a stimulus to raise public awareness and intensify pressure on the political commitments in connection with them. At the same time, the targets may serve as an incentive for long-term effort and a point of convergence for all the governmental and nongovernmental institutions that carry out activities to further human development.

202. The principal targets of the NPA are the reduction of infant mortality and mortality among children under 5 years of age; reduction of maternal mortality; reduction of malnutrition among children under 5 years of age; assistance with the protection and development of minors in especially difficult circumstances; increasing access to and completion of pre-school and elementary education; reduction of illiteracy; and, finally, attaining universal access to drinking water and adequate sewage disposal services.

203. The NPA represents a framework within which the different regular programmes of ministries converge with the social compensation programmes and the various projects and activities carried out by the autonomous decentralized public institutions, private development organizations and the various international development agencies. In other words, the NPA is the strategic framework for a policy of human development and political commitment for the attainment of sectoral and global goals towards which the combined efforts of the different actors applying the social policy should converge.

204. As the implementation of the various areas of the NPA has proceeded, the need has arisen for mechanisms and means of gathering, analysing and publishing where necessary relevant social information, to support both the monitoring and evaluation of the NPA and the process of planning and decision-making in social policy. If there is no follow-up and evaluation of the achievements of the NPA, the Plan loses its meaning as a strategic instrument for the induction of action or as a framework of reference to govern the scope and fulfilment of political promises translated into targets. Future decentralization of the NPA to the municipal level will permit the role played by this level in the global effort to be extended through the determination of targets in line with local realities and strategies, resources and activities tailored to each case.

205. For the purpose of establishing a national system of monitoring and evaluation of the NPA, a Social Indicators Unit (UNIS) has been set up, under the authority of the General Directorate of Statistics and Censuses and the Secretariat for Planning, Coordination and Budget (SECPLAN). As well as coordinating and advising on the sectoral production of the statistics needed for the monitoring and evaluation of the Plan, UNIS is intended to support sectoral productivity (at the regional and local level) in regard to the gathering, processing, analysis and dissemination of social information, including the training of personnel in the different sectors and at the various levels.

(b) National Plan of Action for Human Development, Children and Youth (1990-2000)

206. The National Plan of Action came into being in the socioeconomic context of 1990, when the population of Honduras was 4.7 million, with an average annual growth rate of 2.8 per cent, considered to be one of the highest in Latin America. Fifty-nine per cent of the total population were living in the rural areas, with a steady stream of migration from the country to the main urban centres observed in the recent years. Somewhat more than one third of the population was illiterate and about 60 per cent of the economically active population had less than three years of primary schooling.

207. The Law on the Structural Organization of the Economy and the social compensation programmes were adopted to face up to the macroeconomic maladjustments (fiscal, monetary and balance of payments) that had affected the country in the 1980s, growing worse towards the end of the decade. In 1990 Honduras opted for a programme of structural adjustment to the economy. With this adjustment it is hoped to liberalize the economy and provide incentives for medium and long-term growth based on the activity of the private sector. In this new scheme, the State loses its importance in the economy as a producer (through the privatization of State enterprises) and as a regulator of prices (through the general freeing of the economy).

208. The adjustment programme was emphatically recommended by the International Monetary Fund and the World Bank, and received financial support through a series of structural adjustment and sectoral loans. The programme also had the support of the Inter-American Development Bank and the most influential bilateral cooperation agency in the country, USAID.

209. To lessen the effects of adjustment on the most vulnerable groups (with falling levels of employment and the liberalization of prices) certain programmes known as "social compensation" programmes were incorporated into the structural adjustment programme; these are the Honduran Social Investment Fund (FHIS), the Family Allowance Programme (PRAF) and the Social Fund for Housing (FOSOVI), programmes which are jointly supported by the United Nations Development Programme (UNDP) and the World Bank, as well as other bilateral cooperation agencies.

(c) Areas of action and principal targets of the National Plan of Action

210. The National Plan of Action is based on the integration of activities directed towards two strategic aims: the survival of children and young people

and the improvement of the human condition, supported by a third aim which is productive social work. It is hoped that the approach of the NPA will transcend institutional and sectoral vision and result in packages of action focusing on the problems of children and youth. In its operational plan, the NPA contains a series of principal and supporting targets that are linked with regular programmes, social compensation programmes and sectoral projects and activities. It should be noted that these targets have been discussed and dimensioned by the Ministries of Health and Education and by the various governmental institutions responsible for the implementation and management of the country's social policy.

211. Based on what is lacking socially in the country and in line with the three aims we have mentioned, the NPA establishes the following basic components:

(i) Health

212. In the area of health the need is recognized for greater equity, impact and efficiency in the health services, with greater social participation of the most disadvantaged groups. For the decade of the 1990s the central targets identified in primary health care are continuous reductions in infant mortality, mortality among children under five years, and maternal mortality.

213. The country has committed itself to reduce infant mortality by one third during the decade, that is, to move from a rate of 50 per thousand live births in 1990 to 41 in 1995 and 33 in the year 2000. At the same time, it is aimed to reduce mortality among children under five by 30 per cent and maternal mortality by 50 per cent. To fulfill these main targets a number of supporting targets have been identified (immunization coverage, control of diarrhoeal diseases and acute respiratory infections, antenatal care of women, etc).

(ii) Nutrition

214. Given the magnitude of the problem of nutrition in Honduras, the NPA recognizes the need devise a policy and specific strategy to attack the different fronts giving rise to malnutrition in children under the age of five (lack of food security, inadequate diets, diarrhoeal diseases and acute respiratory infections, inappropriate infant feeding practices, inefficiency of nutritional assistance programmes, inefficient nutritional education, etc.). The targets established in this field are to reduce severe and moderate malnutrition in children under five years by 30 per cent for the year 2000.

(iii) Education

215. Education (pre-school, primary, secondary and adult) is seen as a necessary instrument for socioeconomic development and a way to social justice and the democratization of the country. With this vision, the programme for the modernization of education is being implemented in Honduras, consisting in a process of transformations, adaptations and far-reaching innovations ranging from political and administrative to scientific and cultural aspects, also including economic and legal aspects, at all levels and in all modalities of education in the country.

216. The principal goals of the NPA in the field of education are to extend pre-school education, raising the coverage of the population aged between 4 and 6 years from 12 per cent in 1990 to 32 per cent in the year 2000; to achieve universal coverage with primary education, reducing rates of repetition and dropout which were 13 and 3.7 per cent in 1990 to 7 and 1 per cent in the year 2000; to diversify and increase coverage with secondary education from 19.7 per cent in 1990 to 50 per cent in 1992; and to reduce by 15 per cent the rate of illiteracy, which in 1990 included 32 per cent of the population over the age of 10 years.

217. The housing component and the area of productive social work in the NPA are not analysed in this report as there has been no concerted establishment of targets with the different institutions carrying out activities in these sectors.

(d) The Covenant for Children

218. On 28 June 1994, in the presence of all the mayors of the country and the constitutional President of the Republic the document known as the Covenant on Children was signed, containing the targets of the National Plan of Action (NPA) for each municipality. One of the notable aspects of this document is the appointment of municipal children's advocates, a sort of ombudsman at the municipal level responsible for promoting knowledge of the rights of children, and activities for the defence and monitoring of the International Convention and the Code on Children and other related legislation.

D. Mechanisms to ensure implementation of the Convention

219. The Commissioner for Human Rights has a constitutional rank in accordance with one of the Committee's recommendations. He is the national ombudsman responsible for maintaining vigilance to ensure compliance with all the provisions on human rights in the international and national legislation. (See description in the introduction). The preliminary draft is already before the Legislative Chamber. The competent organs are the following:

(a) The Public Ministry

220. This is a specialized professional body, free from all sectarian political interference, functionally independent from the powers and entities of the State, responsible for representing, defending and protecting the general interests of society, and collaborating to ensure prompt, correct and effective administration of justice, especially in the criminal sphere.

221. The Public Ministry carries out investigation of crime to discover who was responsible and demand application of the law in the competent courts by bringing public criminal proceedings. This State institution also has the task of ensuring respect for and compliance with constitutional rights and guarantees and for the rule of the Constitution and law; it combats drug trafficking and corruption in any form.

222. The Public Ministry also has the task of defending and protecting consumers of primary commodities and public services and, in collaboration with other public or private services, maintaining vigilance to ensure respect for

human rights. To this end, the Ministry is divided into five main directorates that activate the functioning of this institution. These are:

(i) The Directorate of Administration

(ii) The General Directorate of Prosecution

(iii) The Crimes Against Minors Unit in the Directorate of Criminal Investigation

(iv) The Directorate of Control of Narcotics Traffic

(v) The Directorate of Forensic Medicine.

223. The Public Ministry has 17 regional offices throughout the country and special departments based in Tegucigalpa. These departments are the following:

Special Department to Combat Corruption
Special Department to Control Traffic in Narcotics
Special Department for Human Rights
Special Department for Ethnic Groups and Cultural Heritage
Special Department for Minors and the Disabled
Special Department for Women
Special Department for the Environment
Special Department for the Protection of Consumers and the Elderly

224. In conjunction with these special departments there are also five departments attached to the different criminal courts in the Department of Francisco Morazán, in which the capital, Tegucigalpa, is situated.

(b) The National Social Welfare Board: institutional reform

225. Taking the Convention on the Rights of the Child as its starting point, the National Social Welfare Board (JNBS) has initiated the review and adaptation of all its programmes and projects to its new institutional mission of the comprehensive protection of children's rights in Honduras.

226. As from 5 September 1996, when the Code on Children and Adolescents was approved, the process of converting the National Social Welfare Board into the Honduran Institute for Children and the Family (IHNFA) was officially initiated. In response to the commitments assumed and to the provision of article 4 of the Convention on the Rights of the Child, the bill to create the Honduran Institute for Children and the Family (IHNFA) was submitted to the National Congress in October 1995 through the Commission for the Modernization of the State.

227. The Institute is defined as a social development body with sufficient attributions to effectively implement what is established in the Constitution of the Republic, the Convention on the Rights of the Child, the Code on Children and Adolescents and the Family Code. It will become the principal technical authority of the State to guarantee the higher interest of the child.

228. Its approaches are in line with the doctrine of integrated protection, its services are decentralized to six regional offices so as to increase coverage and incorporate civil society, including NGOs, churches, local authorities, municipal children's advocates and other live local forces into its actions. The IHNFA must have technical credibility to establish norms, supervise public and private institutions working with children and mobilize resources at the national level. Its attributions and competences are described in the attached Bill.

229. This process started in 1995. The new Code on Children and Adolescents indicates more than fifty attributions for the National Social Welfare Board. The transformation of the JNBS into the IHNFA comprises various stages.

230. Technical and financial cooperation with the World Bank was established through the Commission on the Modernization of the State for:

(i) Formulation of a new social policy oriented towards children, youth and the family based on rights in place of the traditional sectoral vision. This also includes the preparation of strategy for the adequate institutional development of the Convention on the Rights of the Child and the Code on Children and Adolescents. Participation of civil society in the creation of a "system of opportunities for children in Honduras".

(ii) Modernization of the administrative and accounting areas to guarantee timely support to the execution of programmes and projects. All systems and procedures will be computerized and the firm is already being selected by public tendering to initiate operations in September 1997. This is to ensure institutional decentralization to the regions in the country.

(iii) Design of a new system for the administration of human resources, creating a career administration service for the selection of personnel in which technical and professional personnel will make up 70 to 75 per cent of the total and not just 8 per cent as at present. Technical procedures will be developed for recruitment, recognition of merit, classification and evaluation of posts and salary levels. This aspect is highly important since from 1994 to 1997 the annual share of the JNBS budget for wages and salaries was reduced from 96 per cent to approximately 73 per cent through the increase in extraordinary transfers from the State and the support of international cooperation to finance programmes for integrated protection. However, the IHNFA requires lesser numbers of personnel, so as to increase quality and specialization by looking for vocations and academic qualifications. Since the Bill on the IHNFA was not taken up by the National Congress for two years, its discussion now only three months away from the presidential elections runs the risk that the intention of creating this career administrative service may not be kept free from political and trade union influences. There is the risk that the mistake may again be made of thinking that integrated protection programmes only require illiterate and support personnel rather than academically qualified and experienced personnel with vocations. The JNBS trade union is demanding that the entire staff of more than 1000 should be transferred to the IHNFA, which would at the outset weaken the distribution of financial resources and demonstrate that in a conflict of interests the interest of the trade union would prevail over the best interest of the child. The decision of the National Congress is awaited. It is at present the labour clause that is preventing the passage and approval of the Bill by the Congress.

(iv) Preparation of the labour strategy for the closing down of the JNBS assuring that the employees of the JNBS receive the rights due to them under the law and supporting the legislative commission of the National Congress in the negotiation of the labour aspect with the trade unions.

231. The information system for children (SIPI) has been established and contains social indicators to determine the real situation of children in Honduras who are served by nongovernmental organizations as well as through the programmes of the State. The SIPI was started in 1996 with the cooperation and direction of the Interamerican Children's Institute and is being implemented simultaneously in El Salvador and Costa Rica. The SIPI will overcome the problem of variables, which have hitherto been collected empirically since the parameters measured and the indicators of the NPA only cover sectors in the areas of health, education and environmental hygiene.

232. The new plan for integrated protection was defined and designed with the technical cooperation of UNICEF and the financial cooperation of the Inter-American Development Bank and UNICEF, the Government of China, the European Union and national funds. The plan presents as a system of opportunities based on three major programmes: family and community development, intervention and social protection, and rehabilitation and social reinsertion.

233. To comply with the Convention on the Rights of the Child and the Code on Children and Adolescents, the JNBS has begun its process of transformation and already has the system of opportunities functioning in regard to preventive work, intervention by the State and a new system of justice for adolescents who break the law including guarantees of due process, re-educational approaches, and alternative measures to custody for the application of correctional measures.

234. The system of opportunities for children and families, committed to working for the welfare of children as one of the fundamental aims that are driving the development of Honduras. This means generating special efforts so that we can carry out actions to benefit the whole of the population under the age of eighteen.

235. The strategy to provide integrated protection to children and young people in situations of social risk and in conflict with the law is only possible if it is sustained by the coordinated participation of the State, civil society and international cooperation, in the form of joint activities for promotion, protection and prevention which ensure food, health, education and recreation, based on the best interest of the child.

236. The National Social Welfare Board has reached out institutionally to population groups affected by serious problems of social deterioration. Poverty, hunger, malnutrition and begging are problems that penetrate from slums and villages to the towns, and it is the duty of the Government to spare no effort to find responses to these problems. This situation had led to modification of some of our approaches to work in our programmes, introducing slow but continuous changes in the provision of institutional services, with the criteria of not encouraging activities of socioeconomic dependence but stimulating measures that contribute to self-sustaining activity on the part of the beneficiaries.

237. Support to programmes directed at children and the family in situations of risk and young people in conflict with the law has depended on financial support from the Government. However, to assist in this work steps have been taken to obtain additional resources from national and international entities.

238. We may say that actions have been initiated to apply the doctrine of the integrated protection of children, which demands new institutional conceptions, accompanied by programmes guaranteeing ample participation by local governments and organized society.

239. In fulfilment of the Code on Children, a process has been initiated to remove 743 children and adolescents from institutions after their committal to JNBS centres by judicial order because of social problems and under the doctrine of children in irregular situations. The process of removal from institutions starts from the basic premise that institutionalization should be the last recourse considered for the protection of children at social risk. In its place the repair and refurbishment of more than 50 homes for children and adolescents under the age of eighteen has been started. These homes are run by responsible persons, each in charge of 8 to 10 children.

240. Deinstitutionalization is being done in open programmes and with scholarships for school study, with internment remaining the measure of exception for adolescents who break the law criminally. The appropriateness of the programmes undertaken at the national level as well as in the various municipalities is governed by concern to organize, regulate and give effect to the doctrine of integrated protection of children and adolescents in situations of social risk and in conflict with the law. The main activities of the programmes are as follows.

241. The Family and Community Development Programme began its process of transformation in the activities carried out in the modules and centres of integrated development, with the aim of replacing actions of assistance with actions of development that would allow new alternatives to be sought at the community level, and to overcome the problems encountered, with emphasis on the participation of organized civil society, coordinating with government institutions and involving local governments in decision-making.

242. The community development programme is active in 14 departments of the country. The achievements of this programme include:

- The training of 2748 members of communities at courses in craft and vocational training.

- Care for 10 564 children under six at 49 day care centres for boys and girls aged from 6 months to 6 years.

- The building and repair of buildings and parks for children (14 in all).

- Equipment of 49 integrated development centres, with teaching materials, furniture, kitchen equipment, sports and music equipment, books and indoor games.

- Implementation of the farming, forestry and basic infrastructure project PMA/HON-3926 involving 27 203 participants. This project is being implemented with the joint labour of the social promoters of the JNBS and the beneficiaries in the different communities and approximately 3130 works of environmental sanitation, repairs to houses and other works have been carried out.

243. The programme has created the following sub-programmes:

- Community centre for children and the family
- Care for carers: aimed at families to strengthen opportunities for meeting, recreation and the development of neighbourhood projects
- Godmothers and godfathers
- Children's house
- Cultural mobilization
- Family counselling.

244. The Rehabilitation and Social Reinsertion Programme: the old Division of Minors, the organ of the JNBS that dealt with the problems of children in irregular situations in accordance with law of jurisdiction of minors (superseded by the new Code on Children) has begun its transformation into what is now the Rehabilitation and Social Reinsertion Programme since the adoption of the Code on Children; this is a great challenge for the JNBS, both legally and in the cultural, economic and social aspects, since there needs to be a separation between the problems of children at social risk and young people who break the criminal law.

245. The new system of justice for adolescents who break the law includes actions by children's judges, attorneys, the National Social Welfare Board and the Public Security Force, who must act as described in Title III, Chapter I of the Code on Children and Adolescents. Children under 18 are not subject to penal jurisdiction and children under 12 will receive protection through special programmes if they commit offences.

246. It is the task of the National Social Welfare Board to offer alternatives to internment, such as community service and assisted freedom, already functioning in Tegucigalpa and San Pedro Sula. This model is planned for the rest of the regional headquarters; its operation depends on adoption of the Law

on the IHNFA but it has already been preventing the internment of children for several months. In practice, of every 330 adolescents deprived of liberty only 5 per cent have received corrective measures from the judges. Between 50 and 55 per cent enter and leave educational establishments and the rest remain subject to precautionary measures for 3 months to one year.

247. In addition, the Programme has also required the continuous training of personnel and training seminars have been carried out on:

- the application of the Code on Children.
- The treatment of persons deprived of liberty.
- Ill-treatment and domestic violence.
- Human rights.
- Rehabilitative pedagogy for young people in conflict with the law.
- Counselling on AIDS and other problems.
- Self-assessment.

248. The Intervention and Protection Programme: This Programme was created with the application of the Convention on the Rights of the Child and the Code on Children and Adolescents, and determines the situations and measures of intervention of the Government for the purposes of protection. The principles governing the programme are the avoidance of internment and that the programmes of protection that require separation from family ties either temporarily or for a longer period should be as similar as possible to a normal family environment, while support programmes try to give back to families the primary responsibility for their children with supportive actions to restore family ties and protect rights.

249. This programme initiates the removal of social cases from the judicial sphere by definitively separating them from cases of breach of criminal law and referring them into programmes and centres of social risk. The National Social Welfare Board in October 1995 set up units of assessment and diagnosis for the reception of complaints and requests for aid in cases of social problems which were formerly heard by the children's judges. The model is proposed for all six regions and is already functioning in Tegucigalpa (central area) and San Pedro Sula (northern area) and had dealt with some 1500 cases by July 1997. The Unit consists of professional social workers, psychologists, attorneys and paediatricians, who after analysing and deciding on each case refer them once they are back at home to specialized programmes of NGOs or to the sub-programmes that have been created, such as:

(a) Mothers and families in solidarity: Women and families who after a process of assessment, selection and training take children into their homes when they are in crisis with a temporary break with their family ties, or have committed minor offences, aged 0-5 years and 6-12 years respectively.

(b) Homes: In place of institutionalization children are taken into small homes fully integrated into the social environment. These homes are intended for children and adolescents who do not have any family or community support.

(c) Scholarships and subsidies: These are to support families who because of poverty are at risk of taking their children away from school.

(d) Prosthesis bank: A special fund to provide hearing aids and artificial limbs, wheelchairs, walking frames and sticks for children and adults dependent on children who are unable to buy them for economic reasons. Medical support is given for diagnosis and assessments.

(e) Adoptions: To provide a family to children in the legal situation of abandonment, promoting national adoption. There are about 50 adoptions per year in Honduras.

(f) Programmes for the integration and care of children with disabilities: The JNBS works with a network of more than 40 public and private institutions.

250. At the same time, an Assessment and Diagnosis Unit has been established with the functions of reception, investigation and referral to other programmes; the aim is to remove social problems from judicial jurisdiction. In the eleven months since it was set up the unit has seen 1500 cases. In coordination with the Ministry of the Interior and Justice technical opinions have been given for the creation of new non-profit organizations whose plans of work are based on the integrated protection approach and are in accordance with the new modalities of care provided to children. At the same time there has been registration of the public, private, community and social institutions providing services to children and adolescents, so that their plans, programmes and actions are known.

(c) Family counselling

251. Family counselling, local councils and children's procurator's departments are bodies established by the State or private institutions to offer help and protection to children and families who are victims of domestic violence, where relations are threatened with the deprivation of their rights and freedoms or with the breakdown or disintegration of family ties.

252. Professional actions are carried out in the legal, medical and psychological areas when there is physical, psychological, emotional or mental ill-treatment; when the rights of one member of the family are threatened by another member; when family stability and harmony are in danger of disintegrating; when litigations between partners become increasingly frequent and violent; and in other cases.

253. These instances for the prevention, treatment and rehabilitation of ill-treatment, domestic violence and child abuse were created by executive decree. Actions are carried out under the auspices of two bodies: the National Social Welfare Board (JNBS) and the Ministry of Health.

(d) Family counselling under the Ministry of Health

254. Family counselling provides the opportunity for integrated specialized attention created by Decree 00-79 of 9 June 1993, as a mechanism for the supervision and guarantee of human rights, to provide prevention and give care, protection and support to the victims of intrafamiliar violence, whether it be physical, psychological or sexual.

255. Family counselling services are located in a service production unit (UPS) in each region of the country; this may be a health centre with a doctor and nurse (CESAMO) or a hospital. In the metropolitan area there are three family counselling services in CESAMOs, at Villa Adela de Comayaguela, Los Dos Pinos and El Manchén; in Region 1, at the Hospital Gabriela Alvarado de Danlí; in Region 2, in the CESAMO José María Ochoa Velásquez de Comayagua; in Region 3, in the Hospital Mario Catarino Rivas in San Pedro Sula and another in the town of Puerto Cortes; in Region 4 in the Hospital del Sur; in Region 5 in the CESAMO Vicente Fernández Mejía; in Region 6 in the Hospital Atlántida and in Region 7 in the Hospital San Francisco.

256. Each family counselling service has the following technical personnel:

- a psychiatrist, or if not, a medical professional
- a psychologist
- a social worker
- a legal professional
- support staff where necessary.

257. Family counselling services work with the following strategies which are reflected in the care they give:

- Promotion, and the detection, prevention and follow-up of persons who are the victims of intrafamilar violence. This work is done by the social worker and support staff.

- Specialized care is given by the psychologist through short individual psychotherapy techniques, psychotherapy support groups and group psychotherapy.

- Training is given at three levels:

  (i) to the staff of family counselling services
  (ii) to the staff of institutions
  (iii) to the community in general.

(e) Family counselling services of the National Social Welfare Board

258. This is a mechanism or programme established by the State through the Honduran Institute for Children and the Family or the Division of Mental Health of the Ministry of Public Health, or both institutions, based on the provisions of the Code on Children and Adolescents, to provide support and protection to the victims of intrafamiliar violence (article 270 and 271). It is intended for children in situations of social risk, families exposed to intrafamiliar conflict or violence, and young people in the process of social reinsertion.

259. The objectives of this programme are:

- To inform families in social risk situations of their rights and obligations.
- To give guidance to families to prevent partial or total disintegration.
- To strengthen the capacity of the family to offer education and appropriate treatment to its children and adolescents.
- To give guidance to families as to where to turn when their rights or their physical, psychological or emotional integrity are threatened by domestic violence.
- To offer social, physical, psychological and emotional treatment to children, young people and adults who have been the object of abuse or ill-treatment.

260. The functions of counselling are as follows:

- To deal with requests for help or reports of intrafamiliar violence from children, young people or adults.
- To assess the physical, psychological or emotional damage suffered by the victims.
- To define with the victims the strategies to follow to resolve the problems observed.
- To provide free and integrated assistance to the victims of domestic violence.
- To follow up the plan devised and periodically evaluate progress or the results of the treatment proposed.

261. The personnel involved in the family counselling service are:

(a) A professional psychiatrist or general practitioner

(b) A professional psychologist

(c) A professional social worker

(d) A legal sciences professional

(e) A pedagogical sciences professional

(f) A children's advocate.

262. The types of violence dealt with include:

(a) Physical violence, such as:

- Slight or severe lesions
- Internal or external damage from beating
- Burns and grazes
- Broken limbs or fractures
- Sexual abuse
- Lock-ins
- Other

(b) Psychological violence, such as:

- Recriminations or unfair claims
- Different kinds of threats
- Aggravated insults
- Unfounded accusations
- Humiliating practical jokes
- Blackmail
- Contempt or dishonour
- Other

(c) Emotional violence

(d) Violence by omission

(e) Other types of violence, such as:

- Abandonment
- Reduction of diet
- Non-payment of alimony
- Alcoholism and drug addiction
- Kidnapping, abduction or rape
- Inhibitory prohibitions of leisure activities, friendships, etc.
- Excessive work
- Other

(f) Municipal Children's Advocates

263. These are local ombudsmen appointed by the community at an open meeting (by direct voting by the various members of the community at a municipal council meeting) and who must be vigilant in the exercise of their functions to ensure the comprehensive welfare of children in the municipal setting. They receive no salary for the exercise of this office, which guarantees the apolitical and humanitarian nature of their task. Up to the present there are such advocates in 75 per cent of the country's municipalities exercising their office and receiving training.

264. The Family and Children's Courts, whose jurisdiction and executive activities pertain exclusively to the judges and tribunals. Matters concerning children's rights are heard in the children's courts and family courts. They

each have their respective jurisdictions but complement each other to provide an integral guarantee of the rights and duties of parents and children and the specific rights of children as a whole.

265. We may also mention the Secretariats of State related to the objectives of the NPA.

E. Coordination of the activities of the central, regional and local authorities

266. The sole frame of reference for the fulfilment of national targets is the National Plan of Action. However, as has already been said in this report, this document does not contain an adequate frame of reference for the whole range of rights covered by the Convention and the Code on Children and Adolescents, so that it will be necessary to promote a revision of this document.

267. Although targets are defined in the NPA, in practice the work of coordination is fairly difficult. In December 1996 legislative Decree 218-96 was approved and with it the Secretariat for Coordination, Planning and Budget disappeared. Recently the Social Cabinet has disappeared, and sectoral cabinets are now being created according to need.

268. At the municipal level the action taken through the Association of Municipalities of Honduras (AMHON) is increasingly worthy of note.

269. The National Social Welfare Board, at present in the process of conversion into the Honduran Institute for Children and the Family, already described above, is the governmental institution created to promote the rights of children and oversee their implementation.

270. The National Commissioner for Human Rights, already described above, serves as an ombudsman for human rights and is the independent organ that has been established.

271. The creation of the Social Indicators Unit (UNIS), already described above, is a commitment of the State to evaluate progress with the NPA. An information system for children (SIPI) has also been set up.

272. The SIPI defines a set of indicators on children and an information system is installed in institutions for the protection of children, creating a space for the exchange of information and experience between the countries members of the Organization of American States (OAS). This makes it possible to study the problems of children in their own context and look for appropriate strategies to improve their situation.

273. The SIPI is a project of the Inter-American Programme for Information on Children and the Family (PIINFA) run by the Inter-American Children's Institute (IIN), a specialized agency of the OAS concerned with children and the family.

274. The JNBS as the institution responsible for coordinating all the sectors, both public and private, involved in the study, promotion, execution and assessment of the general policies of prevention and integrated protection of children, has signed an agreement with the IIN for the installation of a system

of information on children (SIPI) to monitor the situation of children in Honduras in the framework of the Convention on the Rights of the Child and the Code on Children and Adolescents.

275. The general objectives of the SIPI are to generate and promote the use of statistical information on children linked with institutions for the protection of children, and to provide tools for planning and management at the institutional and social levels of the country.

276. Among the specific objectives and activities of the SIPI we may mention:

(i) Development of an information system using the computerized procedures developed and installed in Uruguay and Ecuador, with the relevant adaptations for Honduras.

(ii) Adaptation of the formulae designed for the SIPI project of the IIN to collect relevant information on children.

(iii) Development of a proposed information system, to include administrative reorganization, reformulation of working procedures, rationalization of the formulae used, clear definition of the outputs generated by the system for the different levels of decision, norms for the use of information and for privacy, and a glossary of terms and their definitions.

(iv) Creation of a final operational product that will be an information system with manuals for operation, administration and documentation describing step by step the stages of collection, analysis and use of information relating to at least 20 per cent of the children seen by the JNBS.

(v) Training of the staff of the JNBS to operate the system and use the information in decision-making.

F. Periodic evaluation of progress with the implementation of the Convention at the national, regional and local levels

277. At the national level, Honduras has published three documents based on the fulfilment of the targets of the National Plan of Action:

- Human Development, Children and Youth (1994).
- Analysis of the Situation of Children. Women and Youth (1995).
- National Plan of Action for Human Development, Children and Youth. Progress towards mid-decade targets and perspectives for the year 2000 (1997).

278. These and other documents serve for reference for the fulfilment of the targets that have been set. Known as progress reports, these documents are a source of information for the governmental and nongovernmental institutions responsible for working on the theme of children and social policies.

279. The Commissioner for Human Rights publishes annually an independent national report on the national human rights situation, including the issue of children.

280. In the framework of the NPA targets a complementary role is played by the participation of civil society. National or international private or governmental institutions, together with local NGOs, take part in the programmes implemented in various areas. Nevertheless the framework of reference is not necessarily the NPA targets, but may be the emerging activities in the health and other social sectors.

281. The participation of NGOs is very active in the field of the training of community and government personnel, especially in matters of health, rights and projects for local or community development.

282. With respect to the degree of coordination between economic policy and social policy it has not been possible to overcome the rigidity in the financial conditions of the external sector in addition to fiscal and production imbalances. At present, it is necessary to fill the institutional gap, especially through the definition and implementation of a social policy that is integrated with economic policies.

283. The Government budget has attained a level of 35 per cent for social expenditure, although the breakdown is weighted towards recurrent expenditure at the expense of investment, which definitively relativizes the positive impact on attention to the needs of the adult and child population. It should be noted that if 1996 constant prices are used, the result is a situation in which social spending as a share of public spending has fallen from 27.8 in 1992 to 23.8 per cent in 1995, having peaked in 1991 when it was at 32 per cent.

284. The budgets for health and education have increased significantly in local currency terms. Nevertheless, the positive effects are mitigated, taking account of two fundamental aspects:

(a) The purchasing power of the local currency has declined, resulting in a stagnation of spending in terms of greater capacity for the purchase of inputs for social care.

(b) The growth in demand, which in practice absorbs the vegetative or inert growth of the budgets of State bodies with functions relating to children.

285. There are not yet any provisions to quantify clearly the budget resources to be used to benefit children. However, there are specific percentages for some programmes of basic needs, the building and repair of schools and health centres, which are gradually being seen as resources earmarked for those activities. Nevertheless, it must be admitted that it has not yet been possible to raise the awareness of budget analysts so that they quantify more precisely the resources to be used specifically for children.

286. Knowing that economic policies have had negative effects on the living conditions of children and their families, resources (both internal and external) have continued to be channelled to the social compensation institutions to meet situations of emergency. The resources available are

limited and in view of fiscal discipline specifically for the reduction of the coefficient of the fiscal deficit/GDP. The social compensation institutions most active in the period 1992-1997 have been the Honduran Social Investment Fund (FHIS) and the Family Allowance Programme (PRAF). These institutions have focused investments geographically on the most vulnerable groups lacking in water and sanitation and suffering from malnutrition.

287. The intervention of the FHIS consists mainly in the repair or building of schools, health infrastructure and possibly projects for the repair or habilitation of roads for the transport of produce. The PRAF is more concerned with the delivery of subsidies such as vouchers for women heads of households, vocational training for women and school clothing. Although these interventions are very flexible, nowhere are any criteria being applied to evaluate the impact on the poverty situation.

288. Measures to protect the most disadvantaged are being focused. Nevertheless, as confirmed by specialized studies on the impact of vouchers for mother and children, the three programmes of maternal and child health cover a small proportion of the families and children below the poverty line, and "in accordance with the national survey of socioeconomic indicators for 1993-1994 which measures income and nutritional status, this figure represents less than 15 per cent of all families below the poverty line at the national level". 18/

G. International cooperation

289. Deriving from the international cooperation provided through the Honduran Social Investment Fund (FHIS) and the Family Allowance Programme (PRAF), the contribution to the total budget for the education of children under the age of eighteen evolved as follows: 1991:15.1 per cent; 1992:15.5 per cent; 1993: 16.4 per cent; 1994: 4.8 per cent; 1995: 10.2 per cent.

290. Meanwhile, international cooperation through the health budget through the FHIS and the PRAF evolved as follows: 1991: 2.8 per cent; 1992: 4.5 per cent; 1993: 5.3 per cent; 1994: 5.6 per cent; and 1995: 7.2 per cent.

291. In summary, international cooperation has taken a share in the health and education of children ranging from 11.3 per cent in 1992 to 8.8 per cent in 1995.

H. Measures adopted or foreseen to implement article 42 of the Convention

292. No specific work has been reported in regard to the translation of the Convention on the Rights of the Child. However, the Ministries of Health, Culture and the Arts, and Education have produced educational and training materials directed to the indigenous minorities.

293. The Ministry of Education has issued instructions to the departmental directorates for them to implement the principles of bilingual and multicultural

---

18/ See "The impact of food aid and monetary transfers on health and nutrition: an evaluation", USAID, September 1995.

education. To this end there are reports of contents on the Convention on the Rights of the Child in the courses and programmes of the Ministry. There is a clause in the agreement undertaken by Honduras when it signed Convention 169. Some materials have been published by nongovernmental organizations concerned with aid or protection to ethnic groups.

Measures to publicize the Convention and create widespread awareness of its principles and provisions

294. There are no exact figures in the beneficiary offices regarding the publicity given to the Convention, but all have active training programmes directed internally to their personnel and to other government and nongovernmental institutions.

295. The Office of the Commissioner on Human Rights, with its 4 regional delegations and 12 departmental delegations, has given courses and distributed materials to the following beneficiaries: judges, auxiliary personnel in the judicial power, mayors, employers' organizations, parents, children, teachers, students at various levels, civil society in general, the police, members of Parliament, municipal children's advocates, and others on topics relating to international standards of human rights and related national legislation.

296. Between 1994 and 1996 the Office of the Commissioner on Human Rights printed 5000 copies of the Convention on the Rights of the Child.

297. The regional offices have held workshops on the applicability of the Convention to various beneficiaries. These actions have covered areas of difficult geographical access such as the Departments of Intibucá and Lempira.

298. Dramatized radio spots involving children on the Code on Children and Adolescents have been produced for approval by the National Congress.

299. The information supplied by the Office of the Commissioner is as follows:

Average annual training based on the Convention on the Rights of the Child

Year	Talks	No of persons trained	Total
1993	3	45	135
1994	35	62	2170
1995	40	71	2840
1996	46	80	3680
1-6/1997	9	86	774

Year	Workshops	No of persons trained	Total
1993	2	20	40
1994	24	32	768
1995	36	28	288
1996	54	41	2.214
1-6/1997	4	15	60
Total			12.969

300. To fulfill the objective of institutionalizing the rights of children in Honduras at the pre-school, primary and secondary levels, there has been collaboration between the Ministry of Education and the National Institute of Research and Training in Education (INICE) and departmental directorates for training on the rights of the child to be given to senior auxiliary staff, coordinators at the centres for in-service training (CAD) and school heads.

301. At the central level of the Ministry of Education 770 auxiliary supervisors, CAD coordinators and school heads were trained in the Department of Francisco Morazán with the support of Save The Children UK, while 209 employees of the Ministry of Health were given training on the prevention of ill-treatment of children and the care and rehabilitation of victims.

302. On 30 June 1997 an agreement was signed with the Secretariat for Education for the design, production and dissemination of teaching materials and aids for students and educators on human rights.

303. The National Social Welfare Board is permanently engaged in its process of institutional conversion and runs training programmes for all its personnel, from the directors to the auxiliaries and the actual children who are its beneficiaries.

304. The Judicial Power and the Public Ministry regularly hold training programmes on the rights of the child. In the judicial power the entity responsible for training is the School of the Judicial Power. In the Public Ministry there is a training department that includes attorneys, auxiliary personnel and members of the Criminal Investigation Directorate.

305. Unlike the judicial power, in the Public Ministry the titular attorneys and auxiliaries give training to NGOs, judicial employees and civil society on the rights of the child.

306. The Commissions of the National Congress on the Family, the Rights of the Child and Women are one of the most important activities that have been organized since 1993 within the National Congress. Each is headed by a parliamentarian and they have carried out activities to disseminate the related laws throughout the national territory, with the help of the United Nations and

local NGOs. All have made efforts at the national level to train groups in civil society such as mayors, teachers, the armed forces, etc.

307. In the Ministry of Education, under the new national education policies, activities have been undertaken to train teachers in the rights of the child, at the national level and in the departmental directorates throughout the country.

308. Among the nongovernmental organizations, we may mention the following:

- COIPRODEN (Interinstitutional Coordination of Private Organizations for Children and Children's Rights), a grouping of 29 NGOs working on the rights of the child; various training programmes are held monthly for their personnel and for beneficiaries from the government and organized civil society.

- CODEH (Committee for the Defence of Human Rights): this has bases throughout most of the national territory. Similarly, it has internal training programmes and training aimed at the rest of civil society.

- CIPRODEH (Centre for Research and Promotion of Human Rights): this has programmes of specialized training for government officials (deputies, members of the armed forces, judges, attorneys, municipal advocates and civil society in general). It has programmes of legislative lobbying specializing in the rights of children.

- COFADEH (Committee of Disappeared Families): this specializes in helping the victims of the practice of forcible and involuntary disappearance carried out in the 1980s to find the rest of their family members, including children.

309. The Ministry of Education, through the schools in Morazán, has transformed the country's educational system. At the level of the school system it has promoted the model of active and participative schools and training at the national level of school governors as a system of participation and pupil-teacher interaction. In all these instances the rights of children have been openly promoted as a requirement and they are thus found to run right across the national educational system.

310. The training units of the Office of the Commissioner and the National Social Welfare Board, as well as the attorneys and police academies have a strategy for the training of public service officials on the Convention.

311. The Convention and the Code on Children are an element of studies in the faculties of law in the subject of legislation affecting minors; the police training system has set up special units on the subject of children and in the course of this training this subject is treated in relation to international norms of justice for children and procedures for the use of force and of firearms. The proper treatment to be given in school discipline, procedures for detention and remission, school regulations, and any procedure relating to the rights of children seek to ensure the applicability of the Convention. There are slots in the newspapers, radio and television that deal once a week or more with the specific topic of the rights of children. The Government of Honduras

does not have its own television channel, but the mass media do contain regular treatment of the question.

312. With regard to the participation of nongovernmental organizations in campaigns to raise awareness and promote the Convention, and support to these organizations, reference should be made to the reports submitted by the NGOs to contribute to this report.

313. The way is open for the participation of children in actions in their schools or the mass media by sending drawings, cards, poems, opinions, etc, through these promotional channels.

I. Measures taken or foreseen pursuant to article 44, paragraph 6 of the Convention

314. The degree of participation is still relatively low considering the incipient culture of providing comprehensive information on the situation of children to a specialized international committee. Nevertheless, the offices of health, education and to a lesser extent, finances, have participated actively. With regard to local government, we may say that participation has been indirect.

315. The nongovernmental organizations with the most extensive national coverage that specialize in this field have responded to the request for information and experience, and have sent reports to be attached to the national report; all of them have contributed important data and facts for the preparation of this report. Some evidence of this will be found in the annex.

316. All forms of action to ensure widespread dissemination of the Convention have been a part of the country's activities in the period that has elapsed. Unfortunately at the close of this report, there is no exact list specifying of all these various activities.

II. DEFINITION OF THE CHILD

Article 1

317. Article 1 of the Code on Children defines for the first time in Honduran legislation who is meant by a child:

> "Article 1.- The provisions contained in this Code are of a public order and the rights established for children are irrenunciable and intransigible.
>
> For all legal effects a child is a person under the age of eighteen years.
>
> Childhood comprises the following periods: childhood which starts with birth and ends at twelve (12) years for males and fourteen (14) years for females and adolescence which starts at these ages and ends at eighteen (18) years. Persons over eighteen but under twenty-one (21) years take the name of adult minors.

In case of doubt about the age of a child, it shall be presumed until the real age is established that the child has not passed the age of eighteen (18) years."

318. In this respect the Code sticks strictly to the content of article 1 of the Convention, and it goes on to specify other important definitions, such as:

- Provisions relating to children are of a public order, that is, they are irrenunciable, non-transferable and intransigible.

- Childhood extends from 0 to 12 years for males and 14 years for females and adolescence from these ages to 18 years. But this definition of ages does not affect, diminish or alter the universal fact that any human being from 0 to eighteen years of age is a child.

- The presumption of minority of age. This presumption is established in favour of any boy or girl who claims to be a child before any judicial or administrative authority, and is valid until proven, giving rise to the application of the special system of justice or differentiated treatment for children.

319. Medical advice of an urgent nature shall be given to a child even without the consent of its parents in cases where life or welfare is endangered.

"Article 22.- Health centres and public hospitals are obliged to provide immediate attention to children who require it in cases of emergency, even without the consent of their parents or legal representatives. No excuse shall be valid for non-fulfilment of this provision. Such attention shall in no case be for the purpose of executing an act considered by the prevailing law as culpable or contrary to the law."

320. Medical advice shall as a general rule be given under the care of a child's parents or representatives. Exceptionally medical care may be given without the consent of the parents or representatives.

321. Legal advice in the sense of a consultation and the right to a representative is valid when sought by a child in any judicial or administrative process; this right may be exercised through the parents or legal representatives.

"Article 218.- Authorities arresting a child shall report the fact without delay to the National Social -welfare Board or the Public Ministry, so that the child may receive the legal advice he or she needs. This provision shall be understood without prejudice to the right of the parents or legal representatives to appoint a private defender.

Article 219.- Any child who has or is alleged to have committed an offence shall be assisted by a defender. The latter shall be appointed by the child's parents or legal representatives, ex officio by the judge who is hearing the matter or by the National Social Welfare Board."

322. In other words, the provision of adequate medical services is the responsibility of the parents. (See the section on social security in the Constitution of Honduras and the Code on Children).

323. According to article 171 of the Constitution:

> "Education given officially shall be free of charge and basic education shall also be compulsory and fully funded by the State. The State shall establish the mechanisms of compulsion to give effect to this provision."

Compulsory schooling shall continue up to the sixth grade of primary education, including pre-school education. As a rule it covers ages 7 to 13 years.

324. Our labour laws establish that a child of 16 years may enter into labour contracts under the supervision of the Ministry of Labour. Exceptionally, for reasons of material necessity for himself or his family a child may work from the age of fourteen years as a minimum. The newly adopted legislation establishes the minimum age of fourteen years in accordance with Convention 138 of the International Labour Organization (articles 115, 120 of the Code on Children/article 128 (7) of the Constitution).

325. The question of part time and full time employment is dealt with in article 128 (7) of the Constitution and article 125 of the Code on Children.

326. With regard to marriage, the age at which a person is fully authorized to contract marriage without the consent of his or her parents is 21 years (age of majority). However, persons may marry with the consent of their parents or legal representatives at the age of 18 or at 16 if the couple have already been living together.

327. Only at the age of majority may free consent be given for sexual relations with responsibility for the consequences.

328. With regard to voluntary enlistment in the armed forces, voluntary military service may done up to the age of 18. Following the reform of the Constitution, military service is now voluntary and educational. There is no compulsory conscription. Only persons over 18 may enlist in the armed forces. For incorporation into the armed forces the minimum age is 18 years.

329. With regard to criminal responsibility, the new Code on Children establishes clearly that children under the age of 12 years may not be charged, are not criminal and may not be subjected to a children's system of justice. From 12 to 18 years the special system of justice for children who break the law will be applied, with all its guarantees of due process. (Article 122 of the Constitution and articles 180 et seq. of the Code on Children and Adolescents).

330. In the new Code on Children, deprivation of liberty is the final measure that may be applied by the children's judge and this depends on the age at which a child may answer to the special system of justice for children, that is, from 12 to 18 years.

331. Children who break the law may be arrested from the age of 12 to 18 years in accordance with the formalities established by the law. A child may request asylum or internment at a social welfare centre if the need for this can be shown to the authorities in question (articles 85, 208 to 218 of the Code on Children; internment 150(c), 182, 187(c), 188(h), 196, 198, 199, 206, 262, 263, 264, 265, centres for children at social risk, 139 of the Code on Children).

332. With regard to capital punishment and life imprisonment, the law of the special system of justice for children is not autonomous, since it depends on the sentences established in the Penal Code for adults. This may give rise to excesses or confusion. However, there exists a rule that the maximum sentence that may be handed down to children who break the law is eight years. Thus the possibility of these penalties being applied is excluded.

333. The giving of evidence by children in court in civil and criminal cases or to other relevant authorities will be limited only by the degree of maturity of the child or his ability to form his own judgement about matters that concern him.

334. With regard to lodging complaints or seeking redress before a court or other relevant authority, appearance in proceedings in our system of written law is possible through a legal representative or proxy.

335. This is subject to the same conditions, i.e. that a legal representative or proxy may only act with the support and consent of the child's parents.

336. Participating in administrative or judicial proceedings affecting the child is guaranteed, the limiting factor being the child's ability to form his own judgement and his degree of maturity. (Code on Children, articles 60, 87, 181, 199(e), 226).

337. For the modification of family relations it is necessary to have reached the age of majority, i.e. 21 years in the case of Honduras. With regard to access to information concerning biological parents, in Honduras the regime of adoption is full adoption, extinguishing any link with the biological parents.

338. In regard to the legal capacity to inherit, to conduct property transactions, and to create or join associations, these commercial acts are reserved to persons who have attained their majority. The right to association may be exercised under the supervision of the parents before the age of 18. From 18 to 21 it is permitted because it is one of the political rights of citizenship which is attained at that age.

339. In regard to the choice of a religion or attendance at courses of religious instruction, this right is covered in the Code on Children and is exercised under the supervision of the parents or legal representatives and if the child's degree of maturity permits (Code on Children, article 28 (c) - (h), article 199 (k)).

340. Children have no access to the consumption of alcohol or other controlled substances until the age of 18 years (Code on Children, articles 97, 99, 176).

341. The minimum age for employment is 14 years. The school leaving age is 13 (Code on Children, article 120).

342. With regard to distinctions between girls and boys, see the reforms to the Penal Code, made after consultation with civil society and women's rights groups who have been fighting for the elimination of these discriminating differences.

III. GENERAL PRINCIPLES

A. Non-discrimination

343. In our current legislation the principle of non-discrimination is present in various instruments with differing degrees of scope. For example: the Constitution; Decree 131 of 11.01.82, Title III. On the declaration of rights and guarantees, Chapter I, articles 59 to 64; Chapter II, On social rights, article 114; Chapter IV, On the rights of the child, articles 119 to 126.

344. In a broader sense the international norms ratified by Honduras serve as a framework for a broader spectrum of protection. We may mention:

- Decree No 961 of 18.06.1980
  International Covenant on Economic, Social and Cultural Rights. Articles 2 and 10 (13).

- Decree No 188-91 of 09.12.1991
  Convention and Protocol relating to the Status of Refugees. Article 4.

- Decree No 979 of 14.05.1980
  Convention on the Elimination of All Forms of Discrimination against Women. Article 10.

- Agreement No 8 of 26.08.1977 American Convention on Human Rights. Article 24.

- Declaration of the Rights of the Child, 1959. Principles 1 and 10.

- Decree No 7 of 10.04.1941 Convention providing for the creation of the Inter-American Indian Institute. Article 10.

- International Covenant on Civil and Political Rights. Article 24 and 26.

- Convention 169 concerning indigenous and tribal peoples.

345. The principle of non-discrimination is enshrined in our legislation and any act that may restrict, impede or hamper this right for both nationals and foreigners is declared punishable. Our domestic legislation includes these principles. For example:

- Decree No 73-96. Code on Children and Adolescents. Articles 1, 2, 5, 6, 11.

- Decree No 76 of 11.05.1984. Family Code. Article 99.
- Decree No 79 of 14.11.1966. Organizational Law on Education. Title I, Chapter 1, articles 3 and 7.
- Agreement No. 4118 of 15.12.1967. General Regulations on Primary Education. Article 114(a).

346. The Family Code establishes equality between children in their duties and rights without distinction as to filial origin. In accordance with Honduran legislation, the principle of equality before the law is established, reinforced with provisions against specific forms of discrimination, as for example, discrimination against women. Nevertheless, the provisions of a general or global nature are such that various forms of discrimination do exist in practice; hence the need for specific norms, for example on cultural rights, the cultural education of male roles and respect and value for the identity, culture and language of indigenous peoples.

347. For minors with disabilities there should be individual and specialized education, greater institutional capacity and special programmes for rehabilitation in accordance with the standards of article 169 of the Constitution. The same is true for children addicted to drugs for whom there are no legal principles permitting them to attend specialized centres for treatment, follow-up and support to them and their parents, which amounts to discrimination against them and breaches the principles of the Convention.

348. Measures to combat discrimination and guarantee equality both de iure and de facto are contained in the various laws that have been mentioned throughout this report. Here we should reiterate the creation and functioning of the Office of the Commissioner for Human Rights, the special departments of the Public Ministry, the adoption of the Code on Children, etc. Since February 1996 we have had funds transferred from the National Foundation for Children (PANI) to extend and implement social programmes, and this has enabled us to contact nongovernmental organizations, municipal authorities and organized civil society.

349. National network of day care centres: a total of 116 bodies, including NGOs, community development organizations, municipalities, special education centres and residential homes have received financial support to meet the basic needs of a target population of 10 000 children. In addition to the network, support is given to leisure and cultural activities with children of the different organizations which participate in the network.

350. As a complementary action to support centres working at the pre-school level in the most remote rural areas of the country, educational recreational materials are supplied to the community organizations working with volunteers and using the methodology of the informal pre-school education centres (CEPENF).

351. Special service for the care of persons with physical limitations: the aim is to provide the necessary financial support to persons with scanty economic resources who have some physical handicap and who can remedy it temporarily or definitively if they can obtain a prosthesis or special examination.

352. Maternal and child rural penetration programme: the convention signed on 20 May 1996 strengthens the maternal and child rural penetration programme implemented by the Ministry of Public Health through the Sub-secretariat for Population Risks with financial support from the National Social Welfare Board.

353. This programme directs its attention to the development of rural communities in the Departments of El Paraíso and Francisco Morazan, specifically serving the mother and child population, with approaches involving the organization and training of the community to participate in meeting its own needs; promotion and maintenance of the health of mothers and children, promotion of better environmental conditions for them and protection of the rights of the child. The programme is in line with the policy on maternal and child care promoted by the government in the framework of the protection of the rights of the child.

354. Programme of integrated protection for children at risk: this involves promotion of the human and social development of children and the family creating a favourable atmosphere for community enterprise. It supports and encourages community initiatives to build a system of opportunities for children and young people and offers the alternative of the community centres for children and the family.

355. The community godmothers and godfathers who help to look after the needs of their godchildren, either directly or as intermediaries between the child and the National Social Welfare Board may also use the complementary services of scholarships and subsidies and family counselling in cases where this is considered necessary. They also organize services for the care of children from 3 months to 6 years of age at different types of centres such as homes, day care centres or crèches run by mothers.

356. Another component of this programme is the subcomponent "Las Casitas" or care homes where the objective is to prevent the institutionalization of children in big institutions where their personality may deteriorate and their rights be violated; this subprogramme enables children and adolescents without any family ties to have an opportunity in life in a setting that is almost like a family.

357. This programme is based on the concept of mothers in solidarity to provide opportunities for children from 0 to 6 years of age who are in situations of definitive rupture or temporary crisis with their families, providing the physical, psychological and spiritual care that are the maternal function in the context of a family. A monthly subsidy is given for each child by the State to cover the costs of food, clothing, recreation, medicines and other costs.

358. The programme on the rights of the child is intended to promote and defend the right to identity, understood in the first place as the primordial right of the child to maintain his or her name and customs and preserve relations with his or her family, even in circumstances of crisis. For this there is a body of legal procurators who guarantee the right to identity of all the cases assessed by the Assessment and Diagnosis Unit.

359. Training days are held to make known the rights of the child, with the participation, support and solidarity of the various sectors that make up our

society; the aim is to bring about a change in the conceptions of the State, society and the family in their actions relating to the rights of children.

360. In the period covered by the report there has been a focusing of social expenditure on the basis of household poverty, implemented mainly by the FHIS, PRAF and Ministries of Education and Health.

361. With regard to discrimination against girls and the Fourth World Conference on Women, in Honduras the rights of women are predominantly linked with their role as mothers, in a traditional approach that still makes women dependent on their reproductive role.

362. Women have a small share in the exercise of public office. For example, of the 18 governors of departments, 2 are women; of the 13 ministers, 1 is a woman; of the 228 deputies and alternates, 20 are women; of the 9 magistrates, 1 is a woman; Honduras was one of the last countries to recognize the right of women to vote (1954). The share of women in the PEA is 31 per cent.

363. There are difference in average levels of wages between men and women in both the formal and informal sectors of the economy, for example women may earn 63 per cent where men may earn 83 per cent for the same work. 23 per cent of women do domestic work, for which no qualification is required, thus foregoing any possibility of social mobilization and opportunities for improvement.

364. The situation of women in regard to poverty is more critical and the number of women heads of household has increased significantly. There are nearly 166 000 women in this situation, 52 per cent of whom are in the urban areas and 48 per cent in the rural areas. This group of women have as their dependents 33 per cent of all children under the age of 18 years.

365. The maternal mortality rate is 221 per thousand live births, one of the highest in Latin America.

366. One of the most important measures undertaken by the State of Honduras is the adoption of legislation on domestic violence and reform of the Penal Code to impose harsher punishment for sexual offences, offences against dignity and situations such as sexual harassment, which is very common in places of work.

367. In regard to data for the various groups of children mentioned above, measures have been taken at two complementary levels: (a) all the institutions with functions relating to the situation of children (the National Social Welfare Board, the Office of the Commissioner for Human Rights, the Public Ministry, etc) prepare reports (generally annual) in which they systematize specific aspects of the situation of these groups; (b) an information system (SIPI) has also been initiated, which gathers information from both governmental and nongovernmental sources.

368. It is hoped that the various systems of information gathering will come to make up a single system centralizing the incidence of public social policies for each sector.

369. In regard to the prevention and elimination of attitudes and prejudice against children, an emerging problem which has been the subject of special

programmes ranging from repression to guidance and protection has been the problem of gangs known as "pandillas" or "maras". Comprised of young adolescents close to criminal and delinquent circles, they have been spreading throughout the country, including the rural areas.

370 This situation has generated pilot programmes for attention to the problem in institutions such as the Directorate of Criminal Investigation of the Public Ministry, the Children's Justice Department, the Office of the Commissioner for Human Rights, the National Social Welfare Board, and various NGOs.

371. In accordance with article 2, paragraph 2, children have the same remedies and guarantees against violation or failure to recognize their rights. The new Code on Children has specific punishments for this type of discrimination in its paragraphs on economic exploitation, ill-treatment, children at social risk, protection against corruption, etc. All the programmes for the training of attorneys, the staff of the Office of the Commissioner and the judiciary itself are designed to provide information and combat this type of discrimination.

372. Progress and achievements are measured in terms of influence on education and culture. Hence this is question of long term goals. However, some concrete examples may be given: medical practices based on customs or traditions that may produce results detrimental to the health of children, such as traditional birth attendants, healers, etc. are involved by the Ministry of Health and the Ministry of Education in programmes providing guidance on correct practice at childbirth and proper health advice for the population. This training includes the elimination of traditional attitudes that give rise to differences in the treatment of the sexes.

B. The best interest of the child (art. 3)

373. The principle of the best interest of the child is set out in article 129 of the Constitution and in the Code on Children and Adolescents of 1996.

374. This is a criterion and guiding principle in this type of decisions for public servants. The National Social Welfare Board applies this principle in all its programmes and in decisions on the access of beneficiaries to the system. There is a constitutional principle which holds that when there is a vacancy in any State institution, preference will be given if the same criteria of suitability for the job are fulfilled to parents with one or more children. The Code on Children also instructs authorities of any kind to give priority to resolving cases involving children over any other similar cases. The laws on children are of a public nature and take preference in their application.

375. In accordance with data from the Ministry of Finance, social priority allocations have remained high; that is, expenditure on primary education, primary health care, environmental sanitation, transfers to the FHIS, PRAF and drinking water service. Between 1992 and 1996, the coefficient of spending on these services in relation to total social spending has varied from 52.4 to 53.2 per cent respectively.

376. In regard to planning and development policies, the best interest of the child has inspired the formulation of the NPA and has partly permeated the formulation of sectoral policies, especially plans to improve the quality of

education and the identification of targets for greater health care coverage. In the case of transport, not much progress has been achieved and this is a point that must be taken into account in the reform or creation of a new law to replace the law in force since 1976. With regard to the environmental sector, mention must be made of the approval of the general law based on ecological balance that will be handed down to future generations.

377. Adoption procedures have been halted at certain times when institutional shortcomings were found, but re-established in their totality when the Code on Children was approved. The JNBS maintains a specific adoption programme with the services of legal procurators to handle and follow up these cases.

378. In regard to immigration, asylum-seeking and refugee procedures, national practice shows clear evidence of decisions founded on this principle, with preference being given to children in these types of applications. During the decade of the 1980s Honduras was the Latin American State that received the most refugees and asylum seekers without hampering or breaching international principles on asylum and refugees.

379. A case in point is the situation of refugees from Haiti who were received on the Atlantic coast and have so far been settled and integrated, and the children born in the camps have been entered as Hondurans by birth. Where children are involved in migration procedures their treatment is immediately coordinated with the JNBS or the Office of the Commissioner for Human Rights.

380. There are judges specializing solely in the administration of children's justice and their coverage is being extended to the national level. The JNBS is the organ responsible for the internment and care of children in institutions (see the paragraph on the care of children in institutions of custody and care).

381. The social security services do not have universal coverage but extend only to the employees of the State or of private institutions who are contributors. The children of contributors are the only beneficiaries of the public social security system. The rest of the population may only go to the medical centres and their public or private insurance companies but have no social security in cases of disability.

382. In regard to paragraph 2 of article 3, see the description of the public and private services for the care of children.

383. In regard to appropriate norms to ensure fulfilment of the rights of the child, the National Social Welfare Board, or otherwise the Honduran Institute for Children and the Family, have the fundamental purpose of fostering the welfare of children, promoting alternatives to the extended internment of children and ensuring that centres function as open centres in which the child's relations with his or her family group are assured.

384. Norms for the functioning of existing centres and centres to be established in the future by natural or legal entities interested in providing comprehensive care and protection to children are in conformity with Books II and III, Chapter VI and Single Chapter respectively, articles 138 and 273 which state literally:

"Article 138: The Secretariats of State in the Offices of Labour and Social Security and Public Health and Social Welfare, and the National Social Welfare Board shall together adopt measures to ensure that children whose parents or legal representatives are working may be cared for in nurseries during the working day.

They shall also ensure that these nurseries have the necessary facilities for the time spent there to be beneficial to the children as appropriate to their age and their physical and mental condition.

In any case, these services should stimulate the children's development, attend adequately to their primary health and nutrition requirements and contribute to their sustained psychosocial development.

The personnel working in child care establishments shall be specially trained to fulfill their duties."

"Article 273: Establishments for the preventive care and protection of children, both public and private, shall be subject to the control and oversight of the National Social Welfare Board. They shall inform the Board of their activities and programmes at the intervals and in the form determined by the Board.

They shall also, except where duly justified, be obliged to admit the cases referred to them by the competent courts."

385. The following steps must be taken for registration:

- **Written application for registration directed to the General Secretariat of the National Social Welfare Board;**
- **Submission of a list of partners and board of directors;**
- **Submission of statutes of the entity approved by its executive organ;**
- **Submission of certification of legal status (copy of the date of publication of the official Gazette); if this is not available, see annex 1;**
- **Submission of an organizational chart of the institution;**
- **Submission of a plan of work, profile of the professionals, equipment and furniture and source of funding, see annex 2;**
- **Submission of a copy of the property deed or lease contract of the building in which the centre is accommodated;**
- **Submission of the foregoing documentation to the General Secretariat of the National Social Welfare Board.**

386. The physical conditions of the premises at which the centre will function shall include:

- A sound building, with electricity, adequate facilities and drains;
- An area for technical and administrative staff that meets the minimum requirements for size;
- Rooms of reasonable size, adequately ventilated and lit (dining room, kitchen, cot rooms, play rooms, auditorium, etc.);
- The dining room and kitchen shall be painted in pastel colours, using washable oil paint and with skirting boards of 50 cm to prevent the presence of rodents and insects and to facilitate cleaning. Equipment and sufficient utensils to meet needs (store cupboard, refrigerator, freezer, liquidizer, beater and other equipment).
- The sanitation and bathrooms (towels and washable toilets) shall be in proportion to the number of children and separate for the sexes;
- Adequate space for outdoor and indoor activities;
- Drinking water;
- Appropriately designed cutlery and crockery in sufficient amounts;
- Rest rooms with beds or cots in sufficient number for the children and with adequate space, and sufficient bed linen. The walls of the dormitories should preferably be painted in a pastel colour;
- Laundry with separate sinks for washing clothes and cleaning, and cleaning materials kept in a safe place and duly labelled.

387. The programmes of work should address as a matter of priority:

- Assessment of the admission and discharge of each child;
- Integrated care, requiring the intervention of a multidisciplinary team;
- Family guidance;
- Training of personnel.

388. The personnel selected must meet the following requirements:

- Submission to a complete psychological and social test;
- Age between 21 and 45 years;
- Responsible and dynamic;

- Good human relations;

- Interested in keeping knowledge up to date;

- Good physical and mental state of health (VDRL, chest X-ray, faeces, urine, HIV and other tests stipulated by the Human Resources Unit);

- At least two years' experience of work with children.

389. The administration of the centre could be organized as follows:

- Coordination or direction, personnel for guidance or educators;

- Administrative staff;

- Kitchen staff;

- Technical staff (teaching, medical, psychologist, social worker, legal and other);

- Service staff and others considered necessary for the centre to function.

390. There are still traditional practices that are negative, failing to recognize or breaching children's rights by their practitioners or by society in general. But with the changes adopted in the new legislation programmes and services are being implemented that are in line with the new realities. Changes therefore depend to a large extent on how quickly it is possible to implement these services.

391. Programmes of education, awareness and training are the priority for the population and for the officials in charge of these services. Economic resources have been increased in this period but are still insufficient to improve the system of justice and the programmes of the National Social Welfare Board in respect of their coverage at the national level.

392. There are significant advances in the legal framework, but national awareness needs to be raised about respect for and implementation of these norms.

393. In regard to the training given to professionals dealing with children's rights, all the official programmes have reported contents on this point in the training units within their institutions and for the general public.

C. The right to life, survival and development (art. 6)

394. In the National Social Welfare Board, coverage to provide the system of opportunities will be made possible:

- By securing the approval of the draft law on the creation of the Honduran Institute for Children and the Family, which was submitted to the sovereign National Congress in October 1995.

- By securing the priority allocation of economic resources which will make it possible to restore and strengthen the institutional role as the governing body in matters relating to children; this will make it possible to carry out actions designed to improve the quality of services for children and adolescents.

- By promoting measures of action that guarantee a system of opportunities for children and adolescents that ensures that they may fully enjoy and exercise their rights recognized by the Code on Children and the Convention on the Rights of the Child.

- By achieving institutional regionalization, which will make it possible to define particular models of intervention for each region, ensuring the full participation of organized civil society and adequate interinstitutional coordination to implement plans and programmes oriented towards prevention, protection and intervention regarding the young population with maximization of the resources existing in the area. This major effort is directed towards the implementation of the Code on Children and Adolescents, promoting actions that guarantee comprehensive protection of children at social risk and who break the law.

- By managing resources from international cooperation and other financial institutions and directing them into programmes for children.

- By extending the national network of centres for the comprehensive protection of children, strengthening them and ensuring their continuity. It is necessary to go more deeply into processes to remove children at social risk from institutions, offering alternatives to institutionalization based on the different programmes.

395. With regard to children who work, measures have been implemented with the basic purpose of ensuring that work does not negate or restrict the fundamental rights of children, to regulate and gradually eradicate children's work. The work of minors and its eradication have been a latent preoccupation since 1919, the date at which the International Labour Organization (ILO) was founded.

396. The number of children between fourteen and sixteen who work long days, sometimes in sub-human conditions, exposed to disease, sexual abuse, surrounded by street environments full of violence and prostitution, and forced to carry out heavy work is difficult to quantify as this work is generally occult.

397. The number of boys, girls and adolescents at work is a product of the impoverishment of families, which have found themselves forced to take on economic activities in the informal sector simply to survive, which gives rise to the use of child labour as yet another strategy for subsistence.

398. This has given rise to an increase in child labour, foreshadowing a long way to go to eliminate child labour since some children will have to choose between working or dying through being unable to satisfy their basic needs. The

highest risk work in which children are found includes prostitution, agriculture, building and domestic service.

399. The conditions in which children carry out their work are often dangerous and to be deplored, generally given to violence, sexual abuse or the deprivation of liberty.

400. In view of the foregoing efforts have been made to set up mechanisms for the protection of children who work whose ultimate aim is to eradicate child labour. In Honduras one successful step has been the approval of the Code on Children and Adolescents, the work of the National Social Welfare Board in giving support through subsidies to the work being done by some NGOs towards the gradual abolition of child labour and the work of some nongovernmental organizations (the "Share" project, the San Juan Bosco project, the "Alternatives and opportunities" project and others) whose activities revolve around securing opportunities for children's access to food, health, education and housing and promoting respect for their rights, especially to belong to and stay with their families.

401. Staying at school has been identified as one of the important factors in the eradication of child labour, since free and compulsory education is one way to prevent the exploitation of children. The National Social Welfare Board has initiated programmes such as the Community Centre for Children and the Family, the Children's House, and scholarships and subsidies that to some extent make up a network of social and professional support that gives boys and girls formal and technical educational opportunities with access to health and legal advice.

402. It should be explained that by the very nature of this population it is not possible to use one single type of intervention but that interventions must be tailored to the needs indicated as having priority by the target group. In practice a policy of prevention and integrated care by the governmental sector is lacking.

403. In regard to the measures taken to ensure registration of the deaths of children and the causes of death, the National Register of Persons has satisfactory coverage at the national level. But there are no clear programmes of orientation and information of citizens on this type of duties and their importance. In Honduras there are high rates of omission in registers of this type.

404. In regard to orientation services it is relevant to note, among other efforts made by the Ministry of Health, the creation of a mental health unit and family counselling with national coverage.

D. Respect for the views of the child (art. 12)

405. In the new Code on Children a series of principles on the right of the child to express his or her opinion freely on matters affecting him or her that were formerly scattered throughout legislation are harmoniously systematized:

- Freedom for boys and girls to express any thought, and for their views to be taken into account in an atmosphere of respect and tolerance.

- Freedom of expression which includes the possibility of seeking, receiving and distributing information, investigations and ideas by any legitimate means.

- Freedom of conscience, religion and worship.

- Freedom to participate in family and community life without discrimination.

- Freedom to meet, demonstrate and associate publicly.

- The right to their own image.

406. All children subject to any kind of judicial or administrative procedure have the basic right to be informed of the acts with which they are being charged and to be informed of the consequences that may derive from their effects, and have the right to be heard and to have their opinions taken into account in deciding on the measure or acions to be applied.

407. There are legislative measures which permit the child to express his or her views, in line with his or her evolving faculties, on:

- the family environment, as contemplated in the Code on Children;
- school: the Ministry of Education promotes and ensures that morazanic schools and schools governors are operational;
- the administration of justice among minors: this is a fundamental guarantee regulated in the Code on Children;
- internment and life in institutions and centres of care: this is regulated by the applicable procedures of the National Social Welfare Board;
- procedures for seeking asylum: there is no specific legislation governing asylum, but by analogy the principles established in the Code on Children and Adolescents described above are applied.

408. In any judicial or administrative proceedings involving a child, the child shall have the right to be heard and to have a legal representative, who shall be appointed by his or her parents or representatives or shall be appointed ex officio by the Public Ministry or the judge hearing the case.

409. Any child who breaks the law shall take part in the process to which he or she is subject if he or she is of sufficient maturity. As may be applicable, he or she shall have the right from the start of the investigation to be represented and to be heard, and to propose proofs and remedies, without prejudice to the other rights set out in this code (see procedure and guarantees of due process).

410. School governors retain the faculty to regulate together with the teacher and the authorities of the educational centre the quality and type of education received. In instances of this type children have the right to participate and to have their views taken into account.

411. Magistrates in general, family court judges, juvenile court judges, probation officers are all trained by the school of the Judicial Power. It is

reported that in the various courses given consideration has been given to the questions of the rights of the child and the new system of children's justice with both national and international speakers. Courses have been conducted jointly with the Office of the Commissioner for Human Rights and NGOs. Seminars on the Code on Children and related legislation have been included in training programmes since the approval of that important body of law.

412. The Office of the Commissioner for Human Rights and the National Social Welfare Board are the institutions that have centralized the training of police officers, prison officers, teachers, health workers and other professionals.

413. Courses on the Convention are included in the curricula of:

- faculties of law: the curriculum includes the subject of legislation on minors;
- teacher training schools: courses and seminars have been given;
- faculties of medicine and medical institutions and schools of nursing: for both types of professionals the Paediatric College of Honduras and the Inter-American Children's Institute have been making this type of effort;
- schools for social workers, departments of psychology and sociology: social sciences units not only carry out training courses and seminars on the subject but also have research units and projects for children in situations of social risk.

IV. CIVIL RIGHTS AND FREEDOMS

414. The Ombudsman, the Children's Justice Department and the National Social Welfare Board were created to this end.

A. Name and nationality (art. 7)

415. The Ministry of the Interior and Justice, the Office of the Commissioner on Human Rights and 28 nongovernmental organizations grouped together as the Interinstitutional Coordination of Private Organizations for Children and Children's Rights (COIPRODEN) are conducting a national campaign to promote the registration of children. This is intended to overcome at least two obstacles: non-compliance with this duty by parents, and the institutional inefficiencies of the National Register of Persons.

416. Concerned at the high number of children who have not been registered in the National Register of Persons, this body has amended its organizational law and has approved a grace period for the registration of all persons not yet registered, as well as proceeding to simplify requirements for registration.

417. By Decree No 28.17, the National Congress

> "Considering that pursuant to Decree No 150 of 17 November 1982 the Law on the National Register of Persons (RNP) was created, within which

the National Register of Persons is included as a State body with its headquarters in the capital of the Republic and competence for the whole of the national territory, to be responsible for everything to do with the identification and recording of all facts and acts relating to the civil status of persons.

Considering that for the benefit of the citizens of Honduras in general it is necessary to simplify the cumbersome procedures that are required at present to obtain a replacement or correction of entries of births or birth certificates once they have been issued or when the books containing them have been damaged or mislaid.

Considering that up to the present these procedures, in accordance with various provisions of a legal order, have been a faculty exercised by the country's courts of justice, in spite of the fact that this is a function of a voluntary administrative nature and should therefore be entrusted to the competent technical administrative organ, not only to speed up the procedure for the persons requiring it, but also to help to reduce the burden of work, sometimes excessive, of the jurisdictional organs.

Considering that in accordance with article 205 of the Constitution of the Republic, it is for the National Congress to create, decree, interpret, reform and repeal laws.

Decrees

Article 1.- Reform of the Law on the National Register of Persons in articles 11, amended in Decree No 123-83 of 28 June 1983, 12, 19, 20, 21, 28 and 30, amended in Decree No 31-89 of 17 March 1989, 32, 59, 95, 112, 135, 149 and 189 which shall read as follows:

Article 59.- When registration of a birth is requested outside the legal term, established in article 46 of this Law, but not exceeding five (5) years, the applicants shall present pertinent proofs and on the merits of these proofs the Civil Registrar may or may not proceed to make the entry. Resolutions that fail may be appealed against in accordance with the Law on Administrative Procedure.

Article 189.- Extraordinary authorization is given for the period between the entry into force of this Decree and 31 October 1997 to the National Register of Persons to allow it to carry out the following functions:

(a) To authorize the entry of births without any restriction of age that are not in the original books or the copied books, either on account of omission by citizens or because the books have been destroyed.

To this end the Civil Registrar must follow the procedure established and the forms of proof established in Article 30, amended by this Decree.

> When certificates of the birth of the subject in question are submitted as proof, they shall be compared with the original if it is available, or else a letter must be addressed to the relevant Municipal Civil Registrar and the General Directorate of the National Register of Persons to examine whether the document presented was issued in due legal form and to make the corrections, rectifications, additions, changes and other procedures relating to the registration of the civil status of persons, ex officio or at the request of the party."

418. The personnel responsible at the national level are trained not to include any type of discriminatory information in the entry. Hence there is a single form at the national level which includes only the information that is relevant:

- Names of maternal and paternal grandparents
- Name and profession or occupation of both parents
- Place and date of birth
- Sex, weight and size of the boy or girl
- Name of the child
- Address of both parents
- Medical centre or place of birth.

419. The question as to whether the child was born in or out of marriage has been dropped, along with any other difference between natural or legitimate children in the Constitution of 1982 and the Family Code of 1984.

420. If a child is in a situation of abandonment the Code on Children currently in force provides for a rigorous procedure to discover the whereabouts of the parents, including the publication of photographs by the national press or any other mass communication media before making arrangements for adoption. The children's courts and National Social Welfare Board intervene.

421. The Code on Children and Adolescents establishes that children may not be separated from their natural family except in special circumstances determined by the law and exclusively intended to protect them. In this way the State is promoting family stability, developing through the Ministry of Public Health and the National Social Welfare Board programmes of family counselling intended to strengthen family ties, prevent their disintegration or disorganization, violence or ill-treatment, establishing services of mediation, removing social conflicts from the judicial sphere, giving information on the rights of the family, and in general looking for opportunities and options to resolve family problems.

422. Honduras has subscribed to international instruments against statelessness and recognizes in its Constitution the principles of the international law of jus soli and jus sanguini, so that any child born on Honduran territory may opt through jus soli for Honduran nationality (with the exception of children of diplomatic personnel accredited to Honduras) or to take on the nationality of their parents through jus sanguini.

423. In regard to children born out of marriage, constitutional and family law recognize that there are no differences or discriminations based on filiation. "All children have the same rights and duties. No qualifications of the nature of filiation are recognized. In no register or document referring to filiation

shall any declaration be made differentiating between births or indicating the civil status of the parents".

424. In regard to refugee children, Honduras is a signatory of the Convention relating to the Status of Refugees of 1951 (1992). The children of refugees may opt through ius soli for Honduran nationality. A product of this is the fact that the children of refugees from Haiti have been registered as Hondurans. In Honduras there is no possibility of claiming double nationality.

425. The Constitution establishes that:

> "Article 22. Honduran nationality is acquired at birth and through naturalization.
>
> Article 23. The following are Hondurans by birth:
>
> 1. Those born on the national territory, with the exception of the children of diplomatic personnel;
>
> 2. Those born abroad of a father or mother who are Honduran by birth;
>
> 3. Those born on board Honduran military ships or aircraft, and on board merchant ships in Honduran territorial waters; and
>
> 4. Children of unknown parents found on the territory of Honduras.
>
> Article 24. The following are Hondurans by naturalization:
>
> 1. Central Americans by birth who have one year's residence in the country;
>
> 2. Persons of Spanish and Ibero-American nationality by birth who have two years' consecutive residence in the country;
>
> 3. Other foreigners who have lived in the country for more than three consecutive years;
>
> 4. Persons who obtain the naturalization card decreed by the National Congress for extraordinary services to Honduras;
>
> 5. Immigrants who are members of selected groups brought in by the Government for scientific, farming and industrial purposes who may after one year of residence in the country fulfil the requisites of the law; and
>
> 6. A foreigner married to a Honduran by birth.
>
> In the cases in question in paragraphs 1, 2, 3, 5 and 6 the applicant must first renounce his nationality and manifest the wish to opt for Honduran nationality before the competent authority.
>
> When there is a double nationality treaty, a Honduran opting for a foreign nationality shall not lose Honduran nationality.

In the same circumstances foreigners shall not be required to renounce their nationality of origin.

Article 25. While resident in Honduras no Honduran by birth may invoke a nationality other than Honduran.

Article 26. No naturalized Honduran may undertake duties of official representation of Honduras in his country of origin.

Article 27. Neither marriage nor its dissolution affect the nationality of the spouses or their children.

Article 28. Honduran nationality is lost:

1. Through naturalization in a foreign country; and

2. Through cancellation of the naturalization card, in conformity with the law.

Article 29. Honduran nationality by birth may be recovered, when the person having lost it becomes domiciled on the territory of the Republic and declares his wish to recover it."

B. Preservation of identity (art. 8)

426. The Penal Code punishes the falsification or adulteration of public documents with sentences of 3 to 9 years' imprisonment. There are specific criminal offences such as: the usurpation of births and the usurpation of civil status. The prosecution service of the Public Ministry acts to bring public criminal proceedings. In these cases the National Social Welfare Board has a group of legal advisers who proceed immediately to re-establish this primary right of identity.

C. Freedom of expression (art. 13)

427. This is covered, as already explained, in the Code on Children and Adolescents. The main measures taken are in relation to the programmes of the Ministry of Education, such as active and participative schools and school governors.

D. Freedom of thought, conscience and religion (art. 14)

428. This right is also enshrined in the new legislation. In Honduras the most well known exercise at the national level is on Children's Day when the "Children's Parliament" is held in the facilities of the National Congress, composed of boys and girls of different origins and conditions who meet to analyse and deliberate on their main problems. This is not an induced activity, for they are representatives of their school governments at the national level; elected democratically they represent all the children of Honduras and they also include children who are not at school, working children, street children, etc. In practice this is also being done at the departmental and municipal level.

429. In Honduras education is non-confessional, but the educational guidance given in the schools is within the framework of the whole range of rights and especially the right to profess the religion of the child's choice. These contents are given in school through specific subjects such as civic education or in the pupil's orientation class. No restrictions to this right have been reported in educational centres.

E. Freedom of association and peaceful assembly (art. 15)

Measures to ensure the child's right to freedom of association and peaceful assembly, including any specific legislation enacted to establish the conditions under which children are allowed to create or join associations

430. In Honduras, there is freedom of association for all children, but nevertheless in practice there are not many organizations; there are only organizations for sporting or religious purposes, and an incipient organization of working children. It should be noted that "school governors" have been implemented at the primary level of official education. In secondary education, there is still a ban on the formation of student organizations.

431. Associations for leisure and sporting purposes are still predominant, with associations such as boy scouts, girl guides, etc.

F. Protection of privacy (art. 16)

Measures to prevent any arbitrary or unlawful interference with the child's privacy, family, home or correspondence, as well as any attack on his or her honour or reputation

432. The Code on Children penalizes illegal interference in the private life of children in the section on ill-treatment and acts of corruption against children.

433. For the specific measures taken for children placed in institutions for treatment, care or protection, including in judicial or administrative proceedings, reference may be made to the internment programmes of the National Social Welfare Board.

G. Access to appropriate information (art. 17)

Measures for the child to have access to information and material from a diversity of national and international sources

434. The Ministry of Culture and the Arts has transformed the quality and coverage of all services so that children may have access to information to promote their social, spiritual and moral welfare and their physical and mental health.

435. Cultural manifestations of theatre, puppets, dancing, art schools, etc. have been taken to each municipality, in the schools and for the general public. Public libraries have been set up at the municipal level, and through a training programme parents and children in general are made aware of the importance of being familiar with and disseminating our culture.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatmeht or punishment (art. 37(a))

Criminal law provisions to punish torture and other cruel, inhuman or degrading treatment or punishment and procedures of complaint and remedies for children

436. The Office of the Commissioner for Human Rights in relation with NGOs is making efforts in this field. A centre for treatment and prevention of torture has been set up, supported by a Danish organization. The Code on Children governs physical, psychological and mental ill-treatment and abuse.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

Measures to ensure respect for the responsibilities, rights and duties of parents or members of the extended family or community, legal guardians or other persons legally responsible for the child to provide appropriate direction and guidance to the child

437. There are no complete studies on the composition of the family in Honduras. The Commission on the Family of the National Congress is completing a study, and sectoral studies are being carried out by the Family Allowances Programme (PRAF). Family counselling services are beginning to work on all these problems.

Family counselling services or parental education programmes available

438. The family counselling services available provided by the State are:

(a) Family counselling (details in paragraphs 420 and 421)

(b) Schools for parents

(c) Publicity campaigns sponsored by UNICEF, municipalities, the National Social Welfare Board, the Office of the Commissioner for Human Rights, the Public Ministry, UNDP.

(d) Programmes of training for the employees of governmental and private institutions which are responsible for programmes to do with children: judges, teachers, mayors, children'advocates, doctors, promoters, social workers, psychologists, police.

No systematized actions have been carried out to evaluate the efficacy of the services.

Measures to ensure respect for the principles of the Convention

439. The progress achieved in the application of article 5 and the difficulties encountered will be found under the programmes of the National Social Welfare Board.

B. Parental responsibilities (art. 18 paras. 1-2)

Consideration given by law to parental responsibility (recognition of the common responsibility of both parents)

440. The Family Code together with the Code on Children regulate the rights and duties deriving from parental authority. Parental authority is the right of the parents or representatives to administer and take care of the person and the property of their children. Both parents have the duty to care for their children, protect them, give them guidance and administer their property. Alimony is the duty of the parent able to provide it to the parent who needs it.

441. Since the last report was submitted by Honduras there has been no change in family relations; rather, they have been strengthened as the new Code on Children has come into force.

Measures to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities (institutions, facilities and services for the care of children)

442. The measures, services and institutions that provide assistance to parents in the fulfilment of their responsibilities are:

(a) The Honduran Social Investment Fund (FHIS): programme of basic needs and generation of employment;

(b) The Family Allowance Programme: subsidies for mothers and children and for school;

(c) National Social Welfare Board (JNBS): community family development programme, intervention and social protection programme, family intervention programme;

(d) Ministry of Labour: day nursery programme;

(e) Alimony for work project (implemented by COHDEFOR, PRAF, Ministry of Education, Ministry of Natural Resources, National Social Welfare Board);

(f) Sustainable development programme directed at women heads of household: Secretariat for Natural Resources, Honduran Social Investment Fund, Family Allowance Programme.

Relevant disaggregated information on children having benefited from any of these measures and resources allocated to them

443. Care has been given to children through their single mothers. Monetary transfers have been made through school subsidies, maternal and child subsidies, and vouchers for school equipment. Through these mechanisms, 360 000 children on average have benefited every year with a total average annual expenditure of 104 million lempiras (US $ 8.9 million in 1996).

C. Separation from parents (art. 9)

Measures, including of a legislative and judicial nature, to ensure that the child is not separated from his or her parents except where such separation is necessary for the best interest of the child

444. The Children's Court or the Family Court are the organs responsible for the application of measures in this matter. Our legislation promotes family unity and separation from parents only when the situation is harmful for the child, through a process in which the evidence can be duly weighed to arrive at a just solution.

445. With regard to paragraph 2 of article 9, see the guarantees of process already described.

Measures, including of a legislative, judicial or administrative nature, to ensure that the child who is separated from one or both parents has the right to maintain personal relations and direct contacts with both parents on a regular basis, except if it is contrary to the best interests of the child

446. In the Government's previous report details are given of the specific content of the Family Code on the communication regime. In cases where children are separated from their parents in order to protect them, the National Social Welfare Board seeks to maintain personal relations and direct contact through family counselling, permitting periodic visits by members of the child's biological family and also establishing a process of direct intervention with the child and the family.

Measures to ensure that the submission of such a request entails no adverse consequences for the person(s) concerned

447. As long as this is not harmful to the best interest of the child and the requests submitted are evaluated to determine that they are not harmful to any person, in practice it is the National Social Welfare Board that is responsible for the administration of the women's social adaptation centre (women's prison) where there is an area where children under three can stay with their mothers, while family communication and information for other children is facilitated by family counselling.

448. In cases of exception, measures will be taken by the substitute family or the child protection centre. They have the right to know the whereabouts of the parents and vice versa. The child will be separated from its parents if they are likely to provoke an emotional or psychological shock.

449. When there is no exception, children separated from their parents through measures adopted by the State have the right to know the whereabouts of their parents, and parents of their children, except in cases where this would be counterproductive. Social workers carry out the relevant investigations to provide the child, the parents or other family members with information.

Relevant disaggregated information in relation to situations of detention, imprisonment, exile, deportation or death, together with an assessment of progress achieved in the implementation of article 9, difficulties encountered and targets set for the future

450. The Evaluation and Diagnosis Unit has been asked to send us statistical tables of deported children reunited with their families, by age, sex and origin.

D. Family reunification (art. 10)

Measures to ensure that applications by a child or his or her parents to enter or leave the country for the purpose of family reunification are dealt with by the State in a positive, humane and expeditious manner

451. The measures adopted are regulated by the approval and entry into force of the Code on Children and Adolescents, in articles 11 and 28. The Constitution of the Republic also guarantees the freedoms and rights of children without any type of discrimination.

452. Applications by accompanied children are made by their parents acting as their legal representatives; the applications are submitted to the appropriate office where they are processed, provided the prerequisites established by law are fulfilled, without any kind of discrimination.

453. Unaccompanied children must apply through the government organ empowered to act as their legal representative (in the case of Honduras this will be the National Social Welfare Board, article 161 of the Code on Children). This is guaranteed by the Constitution of the Republic in article 80.

Measures to ensure the right of a child whose parents reside in different States to maintain on a regular basis personal relations and direct contacts with both parents

454. Through the approval of the Code on Children in its article 11, all children are guaranteed the rights to their family and to freedom of movement; direct contact will be made only when the parents wish it and are able to travel to make direct contact with their children. Where the child is not able to communicate, the parents may be sought through the State or a relevant institution, except in cases of infectious disease, ill-treatment or abuse.

Measures to ensure respect for the right of the child and his or her parents to leave any country, including their own, and to enter their own country

455. To leave the country only the written permission of both parents is required, signed in the presence of a notary if the parents are not accompanying the child. The illicit transfer of children to foreign countries is an act that is severely punished in Honduras.

E. Illicit transfer and non-return (art. 11)

Measures to prevent and combat the illicit transfer and non-return of children abroad

456. See authorization to travel in the Code on Children now in force, and the information on this point supplied in the first report.

F. Recovery of maintenance for the child (art. 27, para. 4)

457. The new Code on Children regulates the right to maintenance and the new provisions introduced in this period are that applications for maintenance may be made in writing to a judicial authority, and that pregnant women may seek maintenance from the father of the child to be born; this measure is now executive (more expeditious), the judge may order the allocation of a provisional amount while the definitive maintenance is being decided, and the attribution of parental authority does not affect the duty or the right to pay and to receive maintenance.

G. Children deprived of their family environment (art. 20)

458. The Code on Children and Adolescents determines in its article 50 the modalities for the care of children separated from their families. In this respect Honduras, through the National Social Welfare Board, created the subprogrammes on fostering ("Mamas solidarias", "Las Casitas") and reception homes in 1997 with the aim of providing temporary protection and integrated care to children separated from their family environment.

459. Another way of protecting children separated from their parents is to place them with a member of their extended family, making a grant for the child. In the process of placement there is monitoring and supervision of the conditions in which the child is placed to ensure that his or her rights are not violated, and this is done by the technical staff of the programmes. It should be noted that the child's views are paramount in this process.

460. Children deprived of their family environment continue with their pre-school and primary education processes, since the population being cared for corresponds to the ages for those levels of schooling.

H. Adoption (art. 21)

461. The authorities competent to authorize adoption are the family courts, as the case may be, as the instance of control of jurisdictional legality and the National Social Welfare Board as the administrative organ.

462. Adoption is a juridical institution of protection that aims to incorporate into the family, on the same conditions as a child born in a marriage relationship, a person not biologically descended from the adopter, so that he or she may attain full physical, mental, spiritual, moral and social development.

463. With the present Code on Children and Adolescents, the principal finality is the best interest of the child and adoption is contemplated as an alternative

for children without families when in article 150 subparagraph (e) it is established that children declared to be in a situation of abandonment shall be protected through the initiation of adoption procedures.

464. This Code, in chapter VII, section two sets out prohibitions and orders sanctions for the authorities and national or foreign natural and legal persons who infringe the provisions established for adoption, this being an advantage guaranteed by the process. However, we have observed that the Code does not establish any time limit for the procedures to be followed for the legal declaration of abandonment after which children may be placed with national and foreign families.

465. Article 143 of the Code orders that the public and private hospitals and other centres of care shall report on abandoned children and place them at the disposal of the National Social Welfare Board, the Public Ministry, the children's courts or the police authorities within 24 hours of their abandonment,

- if requested by the court, witnesses must be produced;
- if the National Social Welfare Board with its internal procedures for adoption guarantees a check on the applications submitted by Honduran and foreign families as well as the investigations already carried out, in the framework of the law,
- if after a child has been declared to be abandoned, the parents or family members appear, then there is the recourse of restitution and subsidiary appeal (another of the good points of this Code),
- our question is: what is a reasonable period of time (art. 141(c) needed by our judges to determine that children have been abandoned by their parents or families? Our concern is that there are children under institutional protection who have been placed with foster families ("mothers in solidarity") and others in private centres (NGOs) for several months and even years that have not so far been claimed by their parents or any other family member.

466. As a result of all this we have:

(a) Fear, or possibly indifference, on the part of children's judges in deciding to declare children as being abandoned or in situations of social risk;

(b) Children growing up with persons who will not be their true parents and who will suffer psychologically when separated from this foster family when they are assigned after one year or more to adoptive families, which have waited more than a year for a child to be assigned to them;

(c) Deprivation of liberty for the children still remaining in institutions;

(d) The cost to the institution of subsidies paid to the substitute families (foster mothers) and

(e) The poor image presented not just by the institution but by the country vis-à-vis families applying to adopt, who cannot understand why, when there is a new law guaranteeing the rights of the child and the legality of the process, that process can take so long.

467. Adoption is governed legally by the following bodies of law: the Code on Children, the Family Code and the Regulations on Adoption of the National Social Welfare Board.

468. All steps in the adoption procedure are governed by the social nature of the procedure and it is free of charge in regard to the legal professionals involved thus preventing economic abuse for the adopters.

469. The child to be adopted must be declared in a situation of abandonment; this means that the adopted child ceases to belong to his or her natural family and ties of consanguinity with members of that family are extinguished except for the effects of marriage. If the adopter is the spouse of the biological father or mother of the adopted child, the child will retain ties of consanguinity with his or her father or mother.

470. Once a child has been adopted, nobody may bring proceedings to re-establish consanguineous filiation or recognize the child. Adoption of unborn children is prohibited.

471. In Honduran legislation protection is contemplated for children from ethnic or indigenous groups in that their reincorporation into their own communities is promoted where adequate conditions exist. Meanwhile, the difference between full adoption and semi-adoption has been abolished and all adoptions are now full adoptions.

472. The supervisory organs are the family courts and the children's courts.

The effects of adoption on the rights of the child

473. Our legislation promotes complete integration between the adopter and the adopted, establishing that no-one may bring any proceedings to re-establish their consanguineous relationship with their biological family; adoption is irreversible. Once a child has been adopted, he or she will bear the surnames of the adopters. In this respect the effect of adoption is to extinguish consanguineous ties between the adopted child and its biological parents.

474. In regard to procedures for adoption, article 171 of the Code on Children and Adolescents establishes:

> "Any person promoting or effecting the adoption of a child without fulfilling the requirements established in this Code and in the Family Code, or using irregular practices that are harmful to the child, shall be sanctioned with four (4) to six (6) years' imprisonment.
>
> The foregoing sentence shall be increased by two thirds when:
>
> (a) the act is committed for gain; or

(b) the person committing the act has taken advantage of his or her professional situation. In such circumstances, that person shall lose their job and shall be debarred from exercising their profession for five (5) years.

The authorities competent to authorize the adoption of a child are:

1. The National Social Welfare Board
2. The family courts of first instance.

The laws and procedures applicable are:

1. The Constitution of the Republic of Honduras, Decree No 131 of 11 January 1982
2. The Family Code, Decree No 76-84 of 31 May 1984
3. The Code on Children and Adolescents, Decree No 73-96 of 5 September 1996.

The applicable procedures are: administrative and judicial - Internal Regulations on Adoption of the National Social Welfare Board (administrative):

1. Submission of application and required documentation
2. Acceptance of the application
3. Transfer to technical personnel
4. Interviews and assessments
5. Assignment (Assignment Committee)

Judicial procedure - Family Code

1. Application
2 Acceptance
3. Overview by the procurator
4. Announcements in the official gazette
5. Communication with the National Social Welfare Board
6 Procurator
7. Sentence
8. Written decision
9. Entry in the Register of Persons

Pertinent and reliable information is obtained from interviews and psychological assessments and a socioeconomic study carried out by the technical adoption personnel of the National Social Welfare Board.

When the father or mother express the wish to have a child adopted because they are unable to provide for their children's education and other basic needs, their consent will be required if they exercise parental authority or are subject to guardianship with the authorization of the competent court, after information has been gathered regarding the social, psychological and legal consequences of adoption. Consent must be given in person before the competent judge. Depending on their level of development and chronological age the children shall be consulted and informed about the adoption they are being offered."

475. The Family Code, in its amended article 120, paragraph 2, establishes that the intergovernmental institution or private agency recognized by the State in a foreign country shall exercise control and supervision of the person or persons adopting in respect of the adopted child and shall submit reports to the National Social Welfare Board on the physical and emotional development of the child: quarterly in the first year; every six months in the second year; and annually as from the third year until the child reaches 14 years of age.

476. With the approval of the Code on Children, simple adoption as contemplated in the Family Code was abolished, the only recognized form of adoption remaining full adoption.

477. The Code on Children provides in article 65 that the adopted child ceases with adoption to belong to his or her natural family and the relationship of consanguinity is extinguished except for the effects of marriage and when the adopter is the spouse of the blood father or mother of the adopted child.

478. With regard to the child's right to know his or her biological parents, Honduran legislation does not establish any regulation on this point, but in practice a reserve is established on the basis of negative experiences in the past with the involvement of the biological family, in which offers were made outside the legal framework and to the detriment of the institution of adoption.

479. Nevertheless, in the case of international adoptions, it is known that adopting families begin to talk to the child at an early age in a very natural way about adoption. It is left to the decision of the adopting family to give information about the biological parents.

480. In the case of adoption in another country, our Code on Children recognizes placement in care homes or assignment to an adoptive family, and at present the majority of applicant families are foreign. The legislation in force regarding children is specific in its territoriality, there being no regulations governing children adopted by foreigners, only the follow-up undertaken by the National Social Welfare Board (Adoptions) through the government institutions and adoption agencies recognized by the State, which can only be sanctioned by means of the cancellation or suspension of their registration with that institution.

481. Judicial decisions authorizing adoptions are duly authenticated by the competent authorities and are recognized both in the country of origin and the country of reception; as already mentioned, the Code on Children establishes, in addition to article 171, prohibitions and sanctions for those who would wish to benefit from adoption with unacceptable procedures as expressed in articles 69, 70 and 71 of the Code. (See annexes with the international norms (agreements and arrangements) on this matter to which Honduras has subscribed).

I. Periodic review of placement (art. 25)

482. The new Code establishes this right and on reaching the age of 18 years the measure applied may also be modified.

483. Based on article 150 of the Code on Children and Adolescents, the National Social Welfare Board, through the Assessment and Diagnosis Unit, determines in some cases, as an ultimate measure of protection, the placement of children on the basis of the best interest of the child.

484. Of the 1309 children seen by the Assessment and Diagnosis Unit, this measure has only been taken with 32 children. Protection has been given to children who had been abandoned and deported.

485. The circumstances taken into account in deciding on a placement are the situation of being orphaned. The children cared for in the "Las Casitas" homes are assessed by the technical personnel of the Assessment and Diagnosis Unit of the National Social Welfare Board and there is follow-up by family counselling technical personnel who review their cases quarterly.

486. The State of Honduras has two public centres for the care of children with disabilities that come under the social intervention and protection programme of the National Social Welfare Board: the Centre for Special Research and Rehabilitation (CIRE) for children aged from 3 to 12 years and the Centre for Special Training (CECAES) for the care of young people aged from 13 to 23 years, whose objective is insertion into a process of vocational training.

487. 513 children are being cared for at the two centres. In 1997 the National Social Welfare Board initiated the Prosthesis Bank through which care is given to children who need prosthetic and orthotic appliances. Of the applications received, 75 per cent were for children and 25 per cent for adults.

488. Some NGOs devote themselves to working with the disabled and it is they who have led the way with advocacy in this matter, together with organizations of the parents of children and young people with disabilities.

489. Data on the children affected, according to the Assessment and Diagnosis Unit:

- Children abandoned, from February to June 1997: 47 children in the "Mothers in solidarity" programme.

Information from the Social Intervention and Protection Programme:

- 513 children with disabilities (CECAES and CIRE).

490. The competent authorities are the children's courts and the National Social Welfare Board.

J. Abuse and neglect, including physical and psychological recovery and social reintegration (art. 39)

491. In the National Social Welfare Board, the legislative measures adopted in this matter are:

- The approval and implementation of the Code on Children and Adolescents.

- The reforms of the Penal Code in regard to sexual abuse.

- The administrative measures taken by the State through family counselling by the National Social Welfare Board and the Secretariat of State in the Office of Public Health (see family counselling, paras. 251 to 253).

492. In relation to paragraph 2 of article 19, the National Social Welfare Board is complying with the obligation to establish a system of communication for the reporting of children victims of violence, neglect or negligent treatment by establishing a system of telephone lines (31-1079 or 32-5442) for the reporting of such cases.

493. The National Social Welfare Board has established the Community Family Development Programme, whose activities are essentially preventive; with the participation of the public and public and private institutions it runs a system of opportunities that ensure fulfilment of the recognized rights of children and promote the human and social development of the family.

494. To build up this system of opportunities, there has to be a community organization in each community, ample public participation and intra- and interinstitutional coordination to identify needs, determine priorities, activate and verify public and private resources, and evaluate activities and services.

495. At present community centres for children and families are being set up as an integrated proposition to deal with family problems, offering the following services in accordance with the conditions, resources and needs of each community:

(a) Care for carers: directed at families, to strengthen their capacity for meeting, recreation, exchange of concerns and development of communal projects.

(b) Community godmothers and godfathers: volunteers in the community who take responsibility for providing special support for the development of young people, boys and girls when their family structure is weak or transitory.

(c) House of children: this generates a system of opportunities for development among which children may choose, creating physical spaces and social recognition of their rights. Its main components are:

(1) Network of day care centres: these look after children from 0 to 6 years, providing services of medical care, nutrition,

pre-school education, recreation, early stimulation and daily care.

(2) School support workshops, arts, training, sports, libraries, as alternatives to prevent children and adolescents being on the streets while their parents are working.

(3) Nutritional supplementation: care for children who are malnourished.

(d) Family consultancy strengthens family ties, prevents disintegration or disorganization, establishes mediation services, removes social conflicts from judicial jurisdiction, provides information on the rights of families, children and adolescents, ill-treatment, violence, etc., and looks for new opportunities and ways to resolve family problems.

496. Honduras has established, in the Code on Children and Adolescents, legislative measures to protect children against all kinds of ill-treatment or abuse, but the administrative, social and educational measures are in some cases in the initial stage, as in family counselling. The subprogramme needs to be further developed to evaluate its effectiveness. Forms of prevention have not been officialized; it is sometimes necessary to proceed to judicial intervention.

497. There is no compulsory notification for professional groups working with children. The Code on Children establishes compulsory notification for any official. There are no confidential help lines, advice or counselling for child victims of violence, neglect or negligent treatment or any other form of abuse contemplated in article 19. There is no special training for the professionals involved.

498. Honduras, through the National Social Welfare Board and the Secretariat of State in the Office of Public Health, has family counselling to promote the physical or psychological recovery of children who are victims of ill-treatment. The State is planning to expand the family counselling programme at the national level as from 1997-1998.

499. On progress with the application of this article in regard to family counselling we may report as follows:

- In the metropolitan region family counselling has begun to deal with social risk cases with a view to applying the new working strategy required by the Code on Children and Adolescents, making the family nucleus and specifically the parents responsible for the care and orientation of their children, superseding the methodology of assistance.

- Changes in the attitudes of parents and children have been achieved in regard to their rights and responsibilities.

- The interinstitutional coordination established in family counselling facilitates offering various alternative solutions in the cases seen.

- At the community level mechanisms of coordination with NGOs have also been established, enabling training, advice and logistic support to be given.

- The cases requiring educational support are seen individually for family counselling, which permits a guarantee of educational treatment (we attach graphical charts of family counselling).

VI. BASIC HEALTH AND WELFARE
(article 6 and paragraph 3 of article 18)

A. Disabled children (art. 23)

500. According to article 111 of the Code on Children and Adolescents, the National Social Welfare Board will promote with the Secretariats of State in the Ministries of Education and Health and Social Welfare, programmes aimed at the prevention of deficiencies through educational and preventive campaigns, and the rehabilitation of the disabled through support to special education, the integration of the disabled into regular education, the creation of workshops and counselling for training, ensuring recreational possibilities and their participation in special competitions and other methods for the comprehensive rehabilitation of the disabled.

501. The disabled population in our country presents special characteristics in regard to the population of the rural areas and peripheral urban areas which are the worst affected by this type of problems as they do not have access to these services, for economic, social and cultural reasons. It has generally been the NGOs that have led the way with advocacy in this matter, together with organizations of the parents of disabled children and young people.

502. The Education Secretariat, through the Directorate for Special Education, has provided coverage for integration into education and the National Social Welfare Board for special education and training for work.

503. The terminology used in our country is children with challenges or special needs, and disabled children. This population has presented special characteristics in regard to:

- Scant coverage at the level of governmental institutions, services being mostly concentrated in the country's major cities: San Pedro Sula, Tegucigalpa and Santa Rosa de Copán.

- The population of the rural areas and peripheral urban areas are the worst affected with this type of problems as they have no access to these services, for economic, social and cultural reasons.

504. It has generally been the private organizations that have led the way in these matters, together with organizations of the parents of these children.

505. For its part, the State has worked hard in conjunction with NGOs to officialize national policies on special education, but this support has not been complete as they have not been disseminated and promoted for implementation

at the national level, raising awareness and instructing school heads in their implementation.

506. The Education Secretariat has provided coverage for educational integration and the National Social Welfare Board for special education and vocational rehabilitation.

507. It is urgently necessary to train specialized teachers in therapeutic aspects for the provision of quality services; the few existing specialized personnel are working elsewhere because of the little economic incentives they are offered.

508. The individual work done by these institutions and organizations in this area has gathered greater momentum since the initiative of bodies such as COIPRODEN and CIARH which are working to protect the rights of the disabled, as set out in the Code on Children and Adolescents. According to the Code it is for the National Social Welfare Board to assure the coordination, promotion, supervision and financial support to institutions working in this field.

509. In order to fulfill this mandate notices have been sent out convening consultations on the problems faced by these centres with a view to formulating a concerted plan of action, resulting so far in four proposals with strategies for implementation.

(a) Proposal for divulgation: aimed at raising awareness, promotion and concern among the general public and the population with disabilities, effecting a change of image and opening up opportunities.

(b) Proposal for education: aimed at systematizing the processes of educational integration, revision of the roles of the special education centres, and updating of the personnel in service (primary level of the national education system).

(c) Proposal for education for work: a plan of action has been elaborated based on identification of existing labour options and needs, so that real insertion can be achieved; the need for active and passive leadership among disabled people; the IHSS should take an active role in promoting prevention, health and occupational hygiene; conversion of the CECAES into a centre for occupational diagnosis and rehabilitation.

(d) Proposal for recreation: aimed at including in teacher training curricula training in recreation, sport and the arts with special methodologies for this population; using all the existing structures and events providing opportunities in society; strengthening existing sports structures, with the participation of all children in regular and special events (para-olympics and traditional games).

Telethon integrated rehabilitation centres (CRIT)

510. Telethon is a private institution that arose in 1987 from a private and public sector scheme for the collection of donations by means of "marathons" in the mass communications media. Since it opened its services in March 1990, its principal objective in the care of children with disabilities has been to work

in conjunction with parents and teachers to achieve rapid social and educational integration.

511. The following stages are covered in a structured programme:

(a) Assessment of the degree and type of disability.

(b) Application of technical and educational measures to permit development of the child's potential and reduce the degree of disability.

(c) Training of parents on the type of disability, acceptance and aspects of integration.

(d) Training of teachers in the schools the children will attend, following visits by social workers.

(e) Educational integration.

(f) Follow-up.

512. The CRIT in Tegucigalpa has so far succeeded in integrating more than 320 children and during 1997 it is working with 60 new schools on the integration process.

513. Telethon also works jointly on diagnoses and prognoses so that the professionals involved know how to communicate respecting the child's dignity and feelings and give correct information on subsequent management, referring the child to the specialized services.

514. Telethon has a programme of high neurological risk which takes in newborns with problems arising at birth that jeopardize normal development, or that are born with a disability, with the aim of providing information and training.

515. For these two purposes regular visits are made (twice a month) to the regional hospitals for information and training.

516. A process of familiarization with the problems of access has been started so that courses relating to architectural design consider the elimination and modification of existing barriers to permit free access to children and adults with disabilities. Criteria of this kind are not yet being considered in public or private sector plans for the construction of family housing.

517. The Telethon Foundation has become part of a committee supporting the National Social Welfare Board to promote actions to foster the integration of children with disabilities.

B. Health and health services (art. 24)

518. To mention just two of the basic legal instruments (the Constitution of the Republic and the Code on Children and Adolescents), the right to the protection of health is fully recognized. Access to State centres of medical care depends on their availability by geographical area and the supply of inputs for timely care.

519. In this regard immunization coverage has been extended. Mortality rates for infants under the age of one year have also been reduced from 50 per thousand in 1990 to 42 per thousand in 1994, coming close to the target for health for all by the year 2000. Rates for children under five fell during the same period from 65 to 53 per cent.

520. Notwithstanding the progress made, serious differences remain by geographical area and social class. The mortality rate in the rural area continues to be twice as high as that for the urban area. The departments or provinces with the highest rates have been those situated in the western part of the country (frontier with El Salvador) and those in the south-east (near or bordering with Nicaragua): Copán (75); Lempira (75); Intibucá (68); El Paraíso (68); Valle (62) and Choluteca (62). To overcome this special plans are being implemented, including one cross-border project.

521. A strategy of modernization and reform of the health sector is under way with the fundamental emphasis on access. Attempts are being made to expand the services to give greater quantity and quality. Budget allocations are being decentralized to the health regions and co-management with municipal governments is being attempted to facilitate community participation.

522. Since 1992 immunization coverage has been increased, reducing morbidity and mortality among children. Since 1991 coverage of more than 90 per cent has been maintained for the administration of biologicals to children under one year of age. The incidence of vaccine-preventable diseases presents a downward trend and certification of eradication has been achieved for some diseases (poliomyelitis); specific targets have been set for the elimination or control of other diseases (neonatal tetanus, measles). In addition, surveillance of suspected cases is being maintained so as to achieve homogeneous coverage of 95 per cent in all municipalities (measles). Other vaccines have also been incorporated into the immunization schedule (rubella and mumps).

523. The most recent data indicate a slight increase in the rates of malnutrition (acute and chronic) among children under five, most seriously in the rural areas where 2 out of every 10 children present a deficit in their weight/age and weight/height ratios. In short, levels of malnutrition increased between 1987 and 1993/94. There are no major differences by sex. The most severely malnourished come from the poorest families, especially in the western region of Honduras. The greatest difficulties for reducing the severity of malnutrition are bound up with the social and economic structures that constitute the institutional context. Data on low birth weight show a rate of 9 per cent but correspond only to hospital registered births.

524. The measures taken are incorporated into the "Food and nutritional security plan 1995-2000" and may be summarized as incentives to production, trade and importation of food; local training; distribution of vouchers or subsidies to poor families; access to health and sanitation services; production of fortified and hygienic foods.

525. The principal causes of mortality have come to be acute respiratory infections, which it has been possible to reduce using a strategy of community management of pneumonia, especially in the poor areas of the country. The

infant mortality rate is higher in housing where the water supply is outside the house (42 per thousand) and where sanitation is also outside (45 per thousand).

526. In regard to measures to improve the system of education and training of health personnel, there is an agreement between the Ministry of Education and the Ministry of Health ensuring that the subjects of nutrition, breast-feeding, maternity, environmental sanitation and sexuality are included in the curriculum at all levels. Through the municipal plans which are intersectoral and coordinated by the municipal councils and which include the component of health promotion some excellent local experiences are taking place, including the advantages of breast-feeding, food security with training in family kitchen gardens and the selection of more nutritious foods, protection of the environment and reafforestation of river basins, protection of flora and fauna, and prevention of violence and accidents.

527. Sex education has been intensified in the formal and informal education system, but there is also the negative influence of certain television programmes broadcast nationally and by cable where there is too much sexual stimulation and portrayal of distorted role models of partners.

528. The Ministry of Health invests a lot of resources in family planning campaigns and services but a large part of the population still does not use them; many people respect the position of the churches. Family planning methods are used by those with the highest levels of economic resources and education.

529. Early pregnancies are on the increase both in the towns and in the rural areas in all social classes. In 1995 a national youth plan was drawn up, providing for an intersectoral approach to this problem. Improved self-esteem and sex education were identified as objectives for prevention and projects on these lines are being carried out in the most populous areas of the country. Services for differentiated and comprehensive treatment of pregnant girls, including psychological care, are being set up in the hospitals.

530. AIDS is one of the principal health problems in Honduras. The country had a cumulative total of 6200 cases in May 1997 - more than 50 per cent of the cases reported from Central America to the Pan American Health Organization (PAHO). It already has a cumulative total of 300 cases among children.

531. The worst affected age group is the population between 20 and 40 years of age, although there are cases in all age groups. The male:female ratio is 3:1, with a trend towards decrease. The main route of transmission is sexual (heterosexual). The government is investing a substantial share of the budget in the control of this disease and has the support of friendly government agencies.

532. There is a national programme for the treatment and prevention of sexually transmitted diseases and AIDS which includes education, communication, surveillance of blood and blood derivatives, early treatment of sexually transmitted diseases, availability of drugs for the treatment of opportunistic infections, counselling networks, homes for children with AIDS and children orphaned by AIDS, and biosafety.

C. Social security and child care services and facilities (arts. 25 and 18, para. 3)

533. With regard to article 25, in spite of the Social Security Law which dates from the beginning of the seventies and establishes that all workers and their beneficiaries shall have access to social security, in practice only the economically active population, estimated at slightly less than two million people, is directly covered by the basic social security benefits (maternity, occupational illness, invalidity, old age and death benefits). In practice very little has been done to ensure universal access to social security.

534. With regard to children, the Law establishes that social security only covers children dependent on direct contributors up to the age of five years. After this age, the children have no other protection and are exposed to the limitations of the hospitals and public sector health centres.

535. For 1995, of all children under 18 covered as social security beneficiaries (approximately 568 000) only 27 per cent were covered for the risks of illness, maternity, invalidity, old age and death. The total number of children reported as beneficiaries was about 22 per cent of the total number of children in the country in 1975.

536. Honduras does not have a fund for the payment of assistance to the unemployed, in other words, there is no unemployment benefit.

537. Social security has not been limited to Tegucigalpa and San Pedro Sula but coverage has been extended to other areas of the country, although in some cases this does not include the provision of medical services. The main challenges are financial sustainability and the rapid wave of privatization in the sector.

D. Standard of living (art. 27 paras. 1-3)

538. In the Mental Health Department of the Ministry of Public Health it was decided to approach the problem of violence in childhood through care and prevention of the ill-treatment of children and violence against women, to ensure the integrated development of adolescents and to approach mental health through the environment.

Treatment and prevention of the ill-treatment of children and violence against women

539. In June 1994 health work was begun in this field, for which all the institutions having to do with the problem were coordinated and approaches were recommended and have been implemented.

540. In women's and children's justice, the Office of the Commissioner for Human Rights recognized abuse of women and of children as disrespect for human rights. The Ministry of Health undertook to ensure that the hospitals and health centres would detect and respond to such problems. It was found that policies, the courts and legislation needed to be strengthened in this field of preventive work, and subsequently the Directorate of Criminal Investigation set up a special unit to deal with offences against women and children.

541. Experts were brought in to train personnel with responsibilities at the institutional level. Strategies were then devised for each sector that were underwritten by the health sector and since January 1995 they have been implemented in a specific project aimed at prevention and treatment of the ill-treatment of children generally involving the creation of local interinstitutional councils against ill-treatment in each municipality. These have the task of preventing, detecting and rehabilitating the victims and the perpetrators of ill-treatment.

542. In September 1996 the Code on Children was adopted with its consequent legal approach to the problem of ill-treatment. In December 1996 a National Commission against Ill-treatment was formed to ensure coordination, the introduction of measures, the raising of awareness and to achieve social rejection of the problem among the population. This involves participation in the Central American campaign against the ill-treatment of children conducted together with NGOs and regional cooperation agencies.

543. The indicator that enables us to measure the impact so far is that the problem has ceased to be kept invisible and has become easier to report, so that the number of cases has risen in one and a half years from 559 cases to 1 117 cases in 1996.

Committees on child abuse

544. An interdisciplinary team is being trained at every care centre so that the cases identified by the care staff can be referred to it for referral to the appropriate instance, the children's courts, courts, Office of the Commissioner, family counselling or the National Social Welfare Board.

Centres for the integrated development of adolescents

545. A pilot project has been set up with the participation of young people aged from 10 to 20 from four communities, who may or may not be students, seeking to awaken in them the need for integrated development (self-esteem, recreational and work activities). On the basis of this project another is being initiated with the support of the European Union to take it to two centres in Tegucigalpa and one in each health region of the country, making a total of ten centres in the country. The insertion of the adolescents into the formal education system is being encouraged and they are being taught about health, mainly about sexuality, the prevention of early pregnancy and AIDS.

Adolescent clinics

546. At the hospitals and health centres there is care for pregnant girls, ensuring that they continue their personal development, that their child is well accepted and that they avoid a second pregnancy during adolescence.

Mental health and the environment

547. The need for care in the interaction between people and their environment is recognized, guiding the population towards healthy behaviours. Substantial contents on mental health have been incorporated into the curricula of environmental health technicians. In the process of access developed between

the Ministry of Health and the municipalities the priority problems of the municipality are identified, working groups are set up to identify strategies of approach which are included in municipal health plans and financed by various agencies (USAID, PAHO, Government of Sweden). All these issues are included in the training of professionals in medicine, nursing, social work and psychology.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

548. Among the measures of a legislative, administrative and budgetary nature adopted to recognize and ensure the right of the child to education, we may mention:

(i) Divulgation of the Code on Children and Adolescents in the 13 000 pre-school, primary and secondary education establishments. This Code came into force with Decree No 73-96 on 5 September 1996;

(ii) Issuing of Executive Agreement No 0097 which establishes 9 grades of basic education with the aim of extending coverage of access to educational services to the population between 6 and 15 years of age;

(iii) Issuing of Agreement No 0719-EP-94 of 3 August 1994 establishing the legal basis for the institutionalization of the intercultural bilingual education programme. The aim is to serve the population of eight ethnic groups in the country: Misquitos, Garífunas, Pech, Lencas, Tolupanes, Chortis and Criollos or Isleños;

(iv) Creation of the Departmental Directorates of Education as decentralized organs to achieve flexibility and efficacy in the delivery of educational services to children and young people attending the educational centres through Decree No 34-96 of 18 March 1996 of the National Congress;

(v) Issuing of Agreement No 31-37-SE-97 of 11 July 1997 prohibiting the heads and teachers of the country's schools from allowing students to leave the schools to take part in demonstrations of any kind that might endanger their physical and mental integrity;

(vi) Extension of the coverage of educational services to the pre-school, primary and secondary levels by 22 per cent, from 1 225 209 in 1993 to 1 499 639 in 1997;

(vii) Increase in the budget of the Education Secretariat which has risen in the last four years from 791 660.5 lempiras in 1993 to 1 999 538.0 lempiras in 1997 (increase of 153 per cent);

(viii) Active participation in the promulgation and approval of the law on the prevention and eradication of domestic violence against women, which includes articles protecting the children of Honduras.

549. In regard to the budget, the Government of Honduras has set aside 1 999.5 million lempiras for the various levels of education with the aim of meeting educational needs, an amount equivalent to 15.3 per cent of the national budget.

550. In relation to the support given to the family for the education of children, the Government has created the Family Allowance Programme (PRAF) which grants subsidies to families with little economic resources which are distributed by the Education Secretariat through the heads of the schools, thus providing an incentive for the children to stay at school.

551. Measures have been adopted to ensure that children receive teaching in their native language; to this end the bilingual education programme was created and extends to 1576 communities with more than 400 000 people belonging to eight ethnic groups.

552. To guarantee access to education for children with special needs or specially difficult circumstances special and integrated classrooms have been built in sixteen departments to serve a population of 14 924 children.

553. To guarantee that there are sufficient teachers in the school system, Honduras has been systematically creating a minimum of 500 places annually for new teachers at the primary level, 333 places for teachers at the tertiary level and 1222 places in secondary education.

554. To guarantee evaluation of the quality of teaching the Education Secretariat has set up the General Directorate for Evaluation of the Quality of Education, which is the unit responsible for devising, elaborating, orienting, follow-up and monitoring of the national system to evaluate the quality of learning and associated factors. Its purpose is to ensure the success of learning and to certify the quality of the services offered to students at the different levels of education.

555. To provide adequate and accessible educational services and facilities to all children the Education Secretariat has coordinated with the Honduran Social Investment Fund (FHIS) for the building, repair and extension of adequate school buildings and has encouraged the municipalities to contribute to this. Some 159 classrooms have been built for the primary level, 154 for the secondary level and 159 school buildings have been repaired.

556. The average rate of illiteracy is 20.1 per cent in the population under the age of forty, distributed as follows: in the urban area 9.8 per cent for men and 12.5 per cent for women and in the rural area 27.5 per cent for men and 28.3 per cent for women.

557. Transformations have been made in the educational system, starting with decentralization in the programme for the modernization of the Education Secretariat, with administrative policies aimed at initiating a process of reorganization, modernization of management and administrative devolution to permit improvement of children's conditions of learning and thus attain quality education.

558. Coverage at the pre-school level has increased by nearly one third in the last six years as a result of the contribution of informal modalities (CEPENF and CCIE). Coverage in kindergartens (formal) amounts to 80 456 children or 52 per cent of those enrolled; in the CEPENF there are 24 479 children and in the CCIE enrolment is 46 170 children (informal modalities).

559. At the primary level significant progress has been achieved in coverage, success and retention. At the national level repetition has tended to go down, specifically between the years of 1990 and 1996 when the rate reached 10.3 per cent on average. Terminal efficiency in a cohort of 1000 pupils enrolled in the first grade in 1991 was 29 per cent for those who did not repeat a grade and 53 per cent for those repeating 1 to 3 grades.

560. Secondary education is not compulsory for the State, but provision has gradually been increased through the creation, transformation and officialization of establishments at this level; it is aimed at the population aged from 14 to 19 years and given in two cycles. The coverage recorded in 1996 was 32.18 per cent, equivalent to 266 538 students of school age out of 828 278 young people at the national level.

561. Enrolment in accelerated primary schools for adults was 57 per cent in 1996, amounting to 84 088 pupils in the population over 14 who did not have the opportunity for normal study at the primary level.

562. Honduras has established constitutionally that primary education is compulsory and free for all Honduran children in accordance with articles 151, 152 and 153 of the Constitution of the Republic. The minimum age for entry to primary schools is 6.5 to 13 years.

563. In regard to secondary education, although it is not compulsory the State has taken steps to expand provision through the creation of programmes such as the System of Distance Secondary Education (SEMED) and education by radio. 6 per cent of the national budget is for higher education.

564. The Education Secretariat has established the system of school libraries, a measure that will be expanded to establish a library in every school; pupils will also have access to textbooks in the four basic subjects. For the ethnic groups in particular, cards for reading and writing have also been produced for the misquita, pech and tolupán languages.

565. To encourage regular attendance at school and reduce dropout rates mechanisms have been established such as the Department of Student Benefits, which coordinates matters relating to the awarding of scholarships, student subsidies at the secondary level, and school meals at the primary level.

566. So far the Education Secretariat has no information about children or young people who have been excluded from school because of infection with HIV/AIDS. The Health Secretariat, through the STD/AIDS Division, has introduced a draft law to govern the rights (education, work, mobility, family and other) of persons infected with HIV which it is hoped will be adopted before the end of this year.

567. The State, through the Education Secretariat, has adopted measures of a disciplinary nature to protect the dignity of the child. As established in article 78 of the General Regulations on Public Education, section (a), teachers are prohibited from giving corporal punishment, collective punishment or depressing sanctions that may affect the formation of the child's personality; meanwhile, the National Congress passed the Code on Children and Adolescents which regulates and guarantees the protection of the child, establishing the mechanisms and instances for this.

568. With a view to encouraging and stimulating international cooperation in matters of education the Education Secretariat, in the framework of its restructuring, has created the External Cooperation Unit, the purpose of which is to formulate strategies of international cooperation for educational projects to eliminate ignorance and illiteracy, facilitate modern knowledge of teaching and learning and provide technological support to education.

569. Programmes and projects such as the following have been elaborated and are being carried out in the framework of international cooperation: improvement of the quality of basic education, encouragement of basic education in Lempira and Intibucá (FEBLI), programme of literacy and basic education for young people and adults (PRALEBA), rural development in the south of Lempira, active and participative schools, basic education and technical training (EDUCATODOS), production of vocational schools of Honduras, integrated preventive education. These programmes and projects are being financed by agencies such as the IDB, World Bank, German Cooperation (GTZ), Japanese Cooperation (JICA), United Nations Development Programme (UNDP), the Netherlands, USAID, NGOs and others.

B. The aims of education (art. 29)

570. To ensure the compatibility of the aims of education with the rights of the child the following measures have been adopted: creation of the Code on Children and Adolescents, Intercultural Bilingual Education Programme, creation of nine grades of basic education, agreements by the Executive Power to guarantee support to the beneficiaries of the educational system.

571. To give orientation to education and to the review of policies and curricula the following measures have been taken:

(a) Reorientation and transformation of the curricula for teacher training at the twelve teacher training schools in the country.

(b) Application of conventional and unconventional methods at the different levels of education (active and participative schools, televised teaching for secondary education, use of the radio for education, secondary education by distance learning and others).

(c) Initiation of an innovative programme of continuing education for teachers in service which will give teachers an associate level qualification in higher education.

(d) Approval of the Teachers' Statute, agreed by consensus with teachers' organizations and to be approved by the National Congress in order to become law.

(e) Implementation of student welfare programmes, to improve academic performance and the quality of life of the students by means of school meals, demonstration farm projects, school subsidies, nutritional surveillance and national height census.

(f) Implementation of school safety programmes, prevention, recreation and health of the pupils, and the organization and functioning of student boards of governors, especially in the primary schools.

572. The State has adopted measures to guarantee respect for the freedom of individuals and entities to establish and direct educational institutions, for instance the Constitution of the Republic in chapter VIII, article 155, establishes that freedom of research, learning and teaching in the university shall be recognized and protected; at the same time, value is attached to the contribution made by private individuals, bodies and institutions to education; hence the organizational law on education establishes in chapter XXXIX articles that regulate the participation of private educational entities to ensure that they comply with the minimum requirements established by the State.

573. In accordance with the preceding paragraph, the State legally guarantees non-discrimination and the best interest of the child, and has set up mechanisms to ensure respect for the opinion of the child, creating school boards of governors and students' coordinating councils. The Constitution establishes the right to life, survival and integrated individual development (Constitution of the Republic, chapter II, articles 65 to 110) as a consequence of which institutions and laws have been established for this purpose (Office of the Commissioner for Human Rights, Law on Consumer Protection, Code on Children and Adolescents, Family Law) and guarantees have been given for the functioning of NGOs in related areas.

Difficulties encountered

574. It has not been possible to achieve universal pre-school education for the population of 4 to 6 years, as the priority in the Education Secretariat's budget has so far been given to primary education. The necessary mechanisms have not yet been created between the Education Secretariat and the judicial organs to record cases of children who suffer aggression from their parents, teachers or companions.

575. Children with disabilities are taught in ordinary classrooms with special programmes, but there is a need to create a law to ensure that attention is paid to these children.

576. The problem of passing examinations persists and leads to dropout and over-age students, a situation which has repercussions on other social problems such as illiteracy, vagrancy, drug addiction, violence and others. Financing is needed for systematic campaigns aimed at ensuring that teachers know the laws enacted by the State for the protection of children and to organize seminars to raise awareness and incentives to ensure that teachers, parents and the community will protect children.

Objectives set for the future - the period 1998-2007

577. These are as follows:

- **To universalize nine grades of basic education so as to provide educational services to all children and young people between the ages of 6 and 15 years.**
- **To extend the coverage of pre-school education using new strategies and methodologies that ensure quality.**
- **To establish a curriculum articulated internally between levels and externally with the labour market to ensure an increase in the domains in which apprenticeship is available to students at each level and in each educational cycle.**
- **To give priority to serving the populations in vulnerable socioeconomic conditions and which are educationally backward so that they continue learning and are able to enter the labour market.**
- **To generalize the use of innovative technologies in educational centres so as to prepare the students to continue learning and enter the labour market.**
- **To guarantee the revision and enactment of a coherent set of up-to-date laws to ensure managerial capability in the educational centres.**
- **To extend universally to schools the training of their students in values, with special emphasis on education for citizenship and democracy, health, population and the environment, production, development and equity, and national identity.**
- **To generalize the use of active and participative methodologies in the educational centres that ensure the participation of students in the process of teaching and learning and in other activities that foster the strengthening of ethical and civic values.**
- **To prepare and train human resources for teaching with pedagogic skills that will guarantee significant and relevant learning for the students.**
- **To eradicate illiteracy in the population under 40.**

C. Leisure, recreation and cultural activities (art. 31)

578. The Ministry of Culture and the Arts has begun decentralization to achieve better access to leisure, recreation and culture for the children of Honduras. This experience includes popular libraries, dance, theatres and puppets, etc., with the aim that children should have contact with culture and the arts.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children (art. 22)

579. On 23 January 1992 Honduras approved the Convention relating to the Status of Refugees of 1951 and its Additional Protocol of 1967. A national law is currently under discussion to determine the condition of refugee and the treatment and assistance to be given. This draft law is being prepared by an intergovernmental commission with the participation of NGOs and the UNHCR. It foresees an intergovernmental commission for the selection of cases and a special chapter on the special situation of women, the handicapped, the elderly and children.

580. At present only the Convention of 1951 and its Protocol are specifically applicable to children who are considered refugees or who seek asylum. Honduras abides by the principles of the Declaration of Cartagena de Indias of 1984 and the Declaration of San José of 1994. (See annex for the international texts subscribed by Honduras).

581. The intervention of the UNHCR is due to the request made by the Government of Honduras to the United Nations to send its specialized agency on refugees, that is, the Office of the United Nations High Commissioner for Refugees (UNHCR). With a view to coping with the problem of the mass flow of refugees, the National Commission on Refugees was set up on 15 January 1981 to serve as a link between the local and regional authorities, nongovernmental organizations and the UNHCR.

582. In Honduras there is no national legislation in force that typifies the figure of the refugee. During the decade of the 1980s Honduras signed a Letter of Agreement with the UNHCR which contemplates the creation of a National Commission for Refugees and the formation of a bilateral board comprising the UNHCR and the State of Honduras for the selection of cases.

583. Honduras made reservations to the Convention of 1951 which limit and restrict enjoyment of the rights enunciated.

Reservations to the Convention relating to the Status of Refugees

584. With the aim of specifying the scope of its duties by virtue of the present Convention, the Government of the Republic of Honduras expresses itself to be bound by alternative (b) of article 1 B (1), which refers to "events occurring in Europe or elsewhere before 1 January 1951". In depositing its instrument of accession, the Government of the Republic of Honduras, acting in accordance with article 42 of the Convention and article 7 of the Protocol, makes the following reservations:

(a) With respect to article 7: the Government of the Republic of Honduras understands this article to mean that it shall accord to refugees such facilities and treatment as it shall deem appropriate at its discretion, taking into account the economic, social, democratic and security needs of the country.

(b) With respect to article 17: This article shall in no way be understood as limiting the application of the labour and civil service laws of the country, especially in so far as they refer to the requirements, quotas, and conditions of work which an alien must fulfil in his employment.

(c) With respect to article 24: The Government of Honduras shall apply this article to the extent that it does not violate constitutional provisions governing labour, administrative or social security legislation in force in the country.

(d) With respect to articles 26 and 31: The Government of Honduras reserves the right to designate, change or limit the place of residence of certain refugees or groups of refugees and to restrict their freedom of movement when national or international considerations so warrant.

(e) With respect to article 34: The Government of the Republic of Honduras shall not be obligated to guarantee refugees more favourable naturalization facilities than those ordinarily granted to aliens in accordance with the laws of the country.

Reservation to the Protocol

585. The Government makes the following reservation:

> With respect to article 1 (1): The Government of the Republic of Honduras does not consider itself bound by those articles of the Convention to which it has entered reservations.

586. In practice the State of Honduras has granted all facilities both to the UNHCR and to refugees to carry out studies, mobilize, receive medical and health care, etc., and treatment consonant with respect for fundamental human rights.

Measures adopted

587. In regard to the measures adopted to ensure and protect the rights of the unaccompanied child or of the child accompanied by his or her parents or by any other person, these situations are referred to the National Social Welfare Board whose staff place them in a temporary home or other relevant programmes until it is known where they have come from or whether there is a family member or responsible person to proceed to family reunification.

Measures adopted to ensure appropriate dissemination of information and training on the rights of the child who is a refugee or is seeking asylum, particularly to the competent officials

588. The UNHCR and the Centre for Research and Promotion of Human Rights (CIPRODEH) together with the Ombudsman or Commissioner for Human Rights have a cooperation agreement in order to give effect with training in human rights to the Convention of 1951 and other norms relating to personnel of the armed forces, migration authorities and academics. There are at present no refugee children in Honduras.

589. In regard to paragraph 2 of article 22, the National Social Welfare Board has programmes for this purpose.

590. Honduras does not yet have legislation which spells out the procedure for granting the status of refugee. For this reason an interinstitutional commission was formed in 1997 composed of officials from the Ministry of Foreign Relations, the Office of the Commissioner for Human Rights and the Ministry of the Interior and Justice who are preparing for consideration by the National Congress a law to determine the condition of refugees, their treatment and assistance; this legislation seeks to incorporate the principles of the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967.

2. Children in armed conflicts, including physical and psychological recovery and social reintegration (arts. 38 and 39)

591. The International Red Cross works periodically with personnel from the armed forces and other social sectors within the general orientations of international texts on international humanitarian law to ensure that legal norms relevant to children affected by an armed conflict are respected.

592. In Honduras compulsory military service has been abolished and those who do service must be over 18. In the case of war only those eligible for enrolment will participate. For the protection of civilians and especially children the armed forces of Honduras run military exercises and peace operations with multinational forces in courses which are held every year.

593. If a person is recruited under the age of 18 without his consent there is the offence of illegal detention and the legal resources already described are empowered to act.

594. The measures adopted pursuant to paragraph 4 of article 38 are only the training courses already described and the international norms subscribed by Honduras.

595. There is no relevant information on progress achieved with the implementation of articles 38 and 39, or on any difficulties encountered or targets set for the future.

B. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

596. Among the legislative measures adopted, we may mention the approval of the Code on Children and Adolescents, which in its Title III, articles 180 to 268, covers the treatment of minors and the application of correctional measures for their rehabilitation.

597. The Code follows the principles of the Convention on the Rights of the Child and international norms relating to:

- United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines);

- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules);
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

598. The principles established in the Code on Children and Adolescents are the following:

(a) Children who break the law are not subject to ordinary or common penal jurisdiction and may only be deduced to have the responsibility foreseen in the Code on Children and Adolescents.

(b) The measures applicable in the Code shall only apply to children over 12 years who commit an offence or breach of the law. Minors under twelve are not delinquents and if they commit a breach of the law only measures of special protection shall be applied, depending on the case, and comprehensive reeducation shall be arranged.

(c) No child shall be charged with responsibility for breaches of the law that are not set out in a penal law at the time of commission of the offence or subject to a jurisdiction other than the competent children's courts.

(d) In special children's justice the same guarantees of process shall be respected as are set out in the Constitution and other national legislation in force. In particular: presumption of innocence, the right to defence, not to be tried in absentia, to be released if in the view of the competent authority there are no rational indications for commission of the offence, to receive assistance and legal advice, not to testify against themselves, not to be subjected to any violence to force them to testify, since statements obtained by illicit or violent means in the absence of their legal representative have no legal validity, compliance with the terms and legal time limits established in the law, for the sentence to be based on the proof accepted, for the punishment to be in proportion to the damage caused, for no measures other than those established in the present Code to be applied and to be able to appeal against the sentence if so wished.

(e) Children shall not be subjected to more than one procedure for the same acts. The new law should be applied to them if it is more favourable, their educational and leisure activities shall not be suspended for the application of a correctional measure, their parents or legal representatives shall be present at each stage in the process, unless this is prejudicial, they shall be personally identified if this is not already the case, be compensated for material or moral damages suffered, and they may petition the Public Ministry to act to deduce the responsibilities of judicial or administrative officials who have abused their authority or violated their rights.

(f) When adults have participated in the commission of an offence, the judge shall be obliged to communicate their participation to the corresponding jurisdiction for their responsibility to be deduced.

The arrest of child offenders and presumed offenders

599. The arrest of child offenders is one of the most controversial aspects of the rights of children, due to the manifest social consequences of juvenile delinquency and brusque reactions to it, generally designed to repress an existing situation without arriving at a solution of the problem or its underlying causes.

600. Arrest in these cases means direct contact between the authority and the child. This contact is very often uncontrolled and has a varying impact on the formation and development of the child, so that the Code on Children foresees a series of provisions governing the process of arrest as the first contact with a child offender. The offender caught in the commision of an act contrary to the law is the case in which greatest aggressivity is likely to be shown by the offender to the person arresting him and by the latter to the child. Hence it is necessary to determine clearly the scope of the rights of the child and the functions of the authorities responsible for arrest.

601. It is highly relevant to remember that the legal provisions of other juridical instruments are also applicable to child offenders where the Code makes no provision and where it can make no contradiction because they are of a higher hierarchical authority, as established in the Constitution of the Republic. In these cases the constitutional provisions on the right to personal freedom and restrictions on detention shall serve as guidance, together with the provisions of binding international instruments, such as the Convention on the Rights of the Child and the American Convention on Human Rights; at the same time the guidance provided by the Rules for Law Enforcement Officials and other instruments also remain valid.

602. With regard to paragraph 2 of article 40, all national penal legislation in force in Honduras is in accordance with these principles, from the Constitution to the penal law currently valid (see annex on the international norms in force in Honduras and also articles 180 to 187 of the Code on Children and Adolescents).

The rights of child offenders

603. A substantial advance in the matter of fundamental rights and the rights of children, two intimately related legal fields, is the recognition of the rights of the child in the processes to which it is subjected, known as guarantees of due process. Guarantees are mechanisms which prevent transgression of the rights of persons and the Code on Children makes reference to the guarantees established in the Constitution of the Republic.

604. Among the rights that must be guaranteed to achieve not only the welfare of persons but also the successful application of justice in specific cases, we may mention:

- The principle of legality, whereby it is understood that only typical figures of offence as expressly set out in the law may be applied, through a competent authority, by means of procedures expressly established in law for the case in question and in application of the sanctions previously established in the law.

- **The presumption of innocence.**
- **The right to defence.**
- **The right not to be tried *in absentia*.**
- **The right to be released immediately if there are no indications of participation in the offence.**
- **The right to receive immediate professional legal advice and assistance.**
- **The right not to testify against oneself.**
- **The right for terms, time limits and procedural formalities to be fulfilled in the manner foreseen in the law.**
- **The right for the sentence to be based on the proof presented.**
- **The right for the sanction to be proportional to the damage caused.**
- **The right to appeal against adverse decisions.**
- **The right not to be subjected to proceedings more than once for the same facts.**
- **The right to have the new law applied if it is more favourable.**
- **The right to be compensated for the material or moral damages caused to the child.**
- **The right to bring the relevant proceedings to deduce the responsibility of officials who have abused their authority or violated their rights.**

605. In addition, since children are in unequal conditions as compared with adults, in application of the principle and right of equality, children subject to a judicial process shall have the following rights:

- **The right for their participation in the educational system and their leisure and recreational activities not to be affected by the sentence or to be affected as little as possible.**
- **The right for the child's parents or legal representatives to be present at the various stages of proceedings, except where this would be prejudicial.**
- **The right to personal identification or to be given an identification if lacking one.**

606. With regard to paragraph 3 of article 40, see article 180 of the Code on Children and Adolescents.

Persons under twelve years of age

607. The Code on Children reaffirms the concept that persons under twelve years of age shall be excluded from any penal consideration, that is to say, from any criminal jurisdiction, only being given measures of protection. Persons under twelve years of age are taken as being in the process of acquiring knowledge of the world around them, in the process of learning the rules of the game - so to speak - in the environment in which they are beginning to move, in the process of transition from being beneficiaries of a series of family, social and State obligations to consideration of their person as active and participating subjects, with responsibilities appropriate to their age.

608. On the other hand, everyday practice in criminal law excludes the possibility of considering these persons as delinquents, essentially for two key reasons: the first, statistical, being that the number of persons under twelve years of age committing offences is almost nil; and secondly, that of the intention to commit an offence, being that these persons do not have the intention of committing an offence, but in the majority of cases are used by delinquent adults or compelled by their own needs to commit actions that from their standpoint mostly imply the only available means of survival in the face of social indifference which discriminates against them, rejects and stigmatizes them.

609. Persons under twelve years of age are therefore excluded from criminal responsibility.

Child offenders against criminal law

610. These comprise persons over twelve and under eighteen years of age who commit breaches of criminal law, within the sphere of application of a special competence, children's justice, applied by the children's courts.

611. No consideration has been given to the possibility of reducing the age limit for breaches of the law, the object of which would be to apply adult jurisdiction to persons under eighteen, since it is not thought that this is of decisive significance in relation to the problem of delinquency. On the contrary, it is thought that adolescents are precisely in a highly delicate period of formation and development and would be negatively affected by treatment in any way comparable to that given to adults. Hence persons between the ages of twelve and eighteen years are subject to a special jurisdiction if they commit offences against criminal law.

Ways in which child offenders can avoid judicial process

612. One of the most important principles of the new children's law is that it prescribes judicial intervention only for those cases which deserve it. Many of the social situations in which children found themselves placed must now look to other instances outside the judiciary for solutions (families, community and civil society). Even with the Code on Children the stifling judicial atmosphere can be felt because of the number of cases referred to it. It is thus a duty of society to fulfil its social responsibilities to children, one of the most urgent being to facilitate the counselling of families, communities and nongovernmental services in the solution of social problems that do not warrant

judicial intervention. It is hoped that with the application of the provisions of the new Code the work of the courts will become less clogged.

613. Apart from these ways of avoiding judicial intervention, there are others for cases where this is foreseen, as is the case for certain minor offences. To this end, the possibility has been established of avoiding judicial process by three means: conciliation, the criterion of appropriateness and remission. These three possibilities must of course depend on the availability of resources, either central or local.

614. Conciliation is not intended to breach the rights of the child but to ensure full respect for them. Thus conciliation must be avoided where it would be more prejudicial to the child than the actual legal proceedings or their consequences. Unless this is so, the objective of this procedure in the context of the integral protection of the child would be lost.

615. Conciliation may take place at any moment in the case or before the case is opened, provided that it takes place in respect of offences in which there has been no violence committed against property or persons. It shall be requested of the children's judge by the Public Ministry when:

(a) it is a case of actions or omissions in which the responsibility of the child is minimal;

(b) the child has done everything within his power not to commit the offence or to limit its effects;

(c) the child has been seriously affected by the action or omission; and

(d) the offence committed has not caused any significant social impact.

616. Remission: the judge may resolve that the child shall be obliged to participate in community programmes if he or his representatives consent, under the control of the institution in which this service is being given.

617. These possibilities of avoiding legal proceedings are conceived as formative factors for the child so that he is not criminalized. Conciliation is conceived to provide the possibility for understanding between the parties, when it would be more socially educational to reach conciliation than to continue with the legal proceedings. The criterion of what is appropriate is applicable for situations in which the offender's behaviour can be corrected, that is to say, he is offered the opportunity to correct himself. Remission is conceived as the application of a correctional measure of community origin that is better than the measures that might be imposed by the court, making a court case unnecessary.

Measures applicable to child offenders

618. The Code on Children foresees the application of various types of measures in the case of child offenders: measures of protection foreseen for children under twelve; the precautionary measures foreseen to ensure the presence of the presumed offender at the trial or other circumstances permitting justice to be

done; and the correctional measures foreseen for children once they have been recognized as responsible for an offence against the law.

(a) Measures of protection

619. Measures of protection are enforceable in various spheres of the special jurisdiction for children and adolescents in so far as they require protection on the understanding that a child may be amongst those committing the offence or those whose rights are threatened and/or violated. The measures of protection foreseen by the Code on Children may be listed as follows:

(i) The general measures of protection established in article 92, which consist in:

- entering the child in the civil registry;
- enrolment and surveillance of the child's attendance and progress in the educational system;
- ensuring that the child receives the treatment he needs;
- surveillance of the behaviour of those responsible for the child's care; and
- vigilance to ensure that the aggressors do not keep in contact with the child.

(ii) The measures established in articles 102, 103 and 105 on authorization for a child to be brought in or taken out of the country;

(iii) The measure established in article 145 for judgement by national judges;

(iv) The measures established in articles 147 and 149 on the declaration of abandonment or social risk and search;

(v) The measures established in article 150 on the child in situations of abandonment or danger, consisting in:

- prevention or admonition of parents or legal representatives;
- custody or personal care by the nearest blood relation in a position to provide it;
- placement in a residential home;
- placement in a substitute family;
- deposit with a legally authorized private protection centre or with the National Social Welfare Board;
- initiation of procedures for adoption; and

- any other measure to ensure personal care of the child, meet his basic needs or put a stop to dangers threatening him.

(vi) The measure established in article 169 on the ill-treatment of children; and

(vii) The measure established in article 176 on substances producing dependency.

(b) Precautionary measures

620. In exceptional cases the judges require measures that permit them to ensure the presence of the presumed offender at the trial. The grounds and duration of application of these measures is not left to the arbitrary decision of the judges, but must be for reasons that are really deserving, that is to say, must be well founded. This implies the following:

(i) The preparation or training or those who exercise discretionary powers, so that they do so judiciously and in keeping with their respective functions and mandates.

(ii) The existence of checks and balances to restrict any abuse of the discretionary powers and safeguard the rights of the presumed offender.

(iii) The existence of concrete guidelines for the exercise of discretionary powers and the establishment of a system of review and appeal.

621. It should be emphasized that there are some adolescent behaviours that are threats or violations of their own rights and some adolescent behaviours that are threats or violations of the rights of others (acts of offence). In the first case the measures applicable are measures of protection, and in the second case, correctional measures. There is always the possibility of finding the same person in both situations, so that the application of measures of protection to presumed offenders should foresee the risk of relationship with other children who are not offenders.

622. Preference should be given to precautionary measures that best fulfil pedagogical needs and help to strengthen family and community bonds. When judges apply precautionary measures that prejudice the rights of the child, such as not being separated from his family without a reason founded on law, his defender, any other person in the system of justice or the child himself may request correction of this errancy, either as a defence of a legal order, as a defence of the child or in exercise of the right to petition.

(c) Correctional measures

623. The Code on Children establishes a range of measures to be applied in the resolution of cases, depending on their particularities. These measures always possess some criterion by which authority may decide to apply one or other of them. By their very nature, correctional measures cannot be commuted or the object of a caution, since these options would invalidate their purpose.

624. The nine measures foreseen range from social family support to internment, with a series of intermediate measures where the one most in line with requirements for the application of justice, the needs of the child and most proportional to the offence should be chosen, endeavouring in all cases to keep the child in relations with his family.

625. Counselling and social support to the family is founded on the importance of the family as the centre of primary individual formation of persons. The State therefore has the obligation to place a high priority on the needs and well-being of the family and of all its members (article 11 of the Riyadh Guidelines), attempting to preserve the integrity of the family, including with the support of the social services of the community, since society in general also has the obligation to assist the family to provide care and protection and ensure the physical and mental well-being of children (article 12 of the Riyadh Guidelines). The social policy of the State on children should therefore contain elements of support for family environments of stability and well-being, avoiding the separation of children from their parents where it could be harmful.

626. The admonition is a call to attention. It is additionally intended to halt a possible process of dissociation and a deterioration in the child and his behaviour and prevent later and more serious consequences, that is, to prevent the child's offending conduct attaining levels of reincidence or repetition that go beyond society's possibilities for response. This measure has two facets, one directed to the child to correct his behaviour, and the other directed to the parents or legal representatives. The latter is very important, for in many cases the behaviour of children is due to the example they receive, so that the admonition to parents not only implies that they must correct their behaviour that is affecting the child but also shows them that they should pay more attention to the possible causes of that behaviour and look for better forms of solution.

627. The imposition of rules of conduct is not a faculty of unlimited discretion, but on the contrary, every rule of conduct dictated should possess a clear ground and determination of the results it is hoped to bring about in the behaviour of the child. Thus we may see that these measures affect precisely the fields of action that have great influence on the child, such as the school, the use of free time, the restoration of the role and responsibility to a person or institution, frequentation of certain places or persons that are or could be prejudicial, the habit of excessive mobility or the habit of certain particular vices.

628. Community service is social service to compensate for certain behaviour. It should be remembered in this case that the intention of the justice system is to look for pedagogical measures whenever possible, so that community service should be applied in cases where it serves this function in relation to the child, that is to say, not just as a punishment nor because the child prefers this type of measure to others, but because this rule of behaviour will be more appropriate to the objective of correcting the child's behaviour.

629. The obligation to repair damages is a measure used in special circumstances due to the fact that in most cases children are not able either to give a thing back, or to repair it, or to pay adequate compensation, especially

because parents and civil proceedings originating from the acts largely fulfil this requirement. The possibility remains open, however, to apply this measure in situations in which the particular circumstances of the child permit it as a decision directly conveying the necessary pedagogical content so that it is a correctional measure and not simply a punishment or measure of repression.

630. Compulsory residence does not imply restrictions on freedom as such, but the minimum security of protection and care both of the child and of society. Determining the place and particular people with whom the child will live is seen as achieving a minimum of stability and security that may permit better conditions to develop for the adequate training of the child and for the social protection needed following the events. So this is not an arbitrary measure nor an excessive restriction of liberty, but rather a means of ensuring a minimum of conditions that all children should enjoy and all societies be able to provide, for the welfare of all.

631. Probation requires no further explanation, except in regard to the type of educational programme which the authority should ensure is beneficial and not prejudicial to the interests of both the child and society. Thus efforts should always be made to ensure that the programmes attended by the children have contents aimed at correcting in them the causes of their offending behaviour.

632. The regime of semi-liberty is applied in contrast to probation when there are cases in which greater control is deserved, without prejudice to the training activities supporting this measure, to observe the intentions of the system of justice for child offenders and for general welfare.

633. Internment is the measure applied exceptionally in the most serious cases. The Code on Children establishes clearly when it is applicable and when it is not. It is not correct to apply internment as a precautionary measure (to ensure the presence of the presumed offender at the legal proceedings) if the conditions or circumstances foreseen for its application as a correctional measure are not present. Internment should respect all the rights foreseen for children subjected to this measure, as stipulated in article 199 of the Code on Children.

634. These measures may be suspended, revoked or replaced by others, following professional study, and applied simultaneously, successively or alternately, in so far as this improves the treatment of the case and is of most benefit to the child and to society. It should in any case be remembered that the rights of child offenders should be at least the same as the recognized rights of adults. So that reference made by the Code on Children to broader branches of national and international legislation permits in the application of the law the recognition of other rights not established in the Code but found in other related legal instruments, such as the penal procedure law, in the case with which we are concerned, in so far as it is of benefit for the child.

635. Omissions have a procedure that is more expeditive than the process for acts typified as offences. The prescription in each case is clearly established in the Code in its article 204.

The proceedings for the child offender

636. The proceedings for the child offender are in two parts: the preparation and the trial.

637. The preparatory stage implies the form in which action is initiated against the presumed offender, the opening of investigations and in general the accomplishment of the legal prerequisites necessary for a case to be opened against a child. If these prerequisites are not met the trial may not go ahead, since there are not sufficient grounds for it. At this stage there is always the possibility of applying relevant precautionary measures. In any case the criterion should apply that any measure to be imposed on the presumed offenders should be adequately justified and should not be mechanically applied or as an immediate or obligatory response to the case, but rather, measures should be preferred that do not imply separation of family or community bonds.

638. The proceedings established by the new Code are oral and take place in a reserved audience. The judge is the director of the audience and should follow the steps of procedure established in the new Code. The reserved audience is also divided into two stages for the effects of the interest of the proceedings, that is to say, there are two essential interests: to determine the existence of the act and the degree of participation of the presumed offender in it, and to determine whether or not any of the correctional measures foreseen by the law shall be applied.

639. When the responsibility of the child as an offender emerges in the proceedings, correctional measures are applicable subject to the criteria for their application in each case. The possibilities to appeal against the resolution also remain valid.

640. One of the greatest conflicts in the law occurs when the authorities have ordered something and it is not done, so that the new Code has a special paragraph referring to the execution of measures, both to avoid abuses of authority and evasion of responsibility on the part of the offender.

The procedure for the restitution of rights

641. The procedure for the restitution of rights is intended to restore social rights and not just any right. To determine the rights to which this procedure is applicable, one must refer to the determination of social rights foreseen in the general doctrine of human rights.

642. In the Constitution of the Republic we see that social rights are established in a manner that is somewhat confusing, as this instrument includes in the chapter entitled "Of social rights" rights referring to the family, questions already governed by the legislation on that subject, so that it would be conflictive to try to apply the procedure with which we are concerned to these rights. But we also find in the Constitution of the Republic rights that are eminently social that have no procedures to assert them and which may be subsumed to the rights foreseen as social rights by the general doctrine of human rights.

643. Thus we may see, among these rights, the right to work and other labour rights, the right to social sequrity, the right to health, the right to education, the right to culture and the right to housing. To these rights should be added the rights foreseen in the Code on Children. Then we should be adding the right to sport and free time, and the right to the environment and natural resources.

644. There is some confusion with the term "diffuse rights" as this suggests the possibility of a special category of rights as yet not clearly determined. This expression in fact does not refer to a special category of rights but to the action whereby this procedure is undertaken, it being the action and not the rights that is diffuse. The action is diffuse precisely because anyone can make use of it, even if they are not directly affected. Now this procedure applies to actions to ensure individual social rights, that is to say, the rights that should be recognized for a particular child, for what should be understood when article 266 of the Code refers to "actions that have the purpose of restoring to a child..."

645. The Code does not mention in general terms the application of this procedure for the prevalence of social rights that affect groups of persons or social sectors. The original intention of the existence of this procedure being precisely to address the problem of social rights not affecting particular people but groups of people, sectors or communities, it is necessary to remember in applying this procedure the spirit of the law in this case and to permit its application for this type of general purposes, so that this was considered to be the passing of procedural orders to ensure a result within a reasonably short period of time.

646. The children's courts run training courses on rights and the procedural part of the new system. The institutions responsible are the IDB, the Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), USAID, the Office of the Commissioner for Human Rights, CIPRODEH.

647. Among the progress achieved with the implementation of article 40 we may mention:

- The enactment of the Code on Children and Adolescents with its procedural and dogmatic principles;
- The appointment of nine children's judges and the progressive advance of this new jurisdiction;
- The initiation of oral proceedings;
- The open support of the Supreme Court of Justice to strengthen the children's justice system.

648. Among the difficulties encountered, we may mention the non-existence of programmes or specialized centres for the fulfilment of correctional measures (it is hoped that the IHNFA will soon become functional), needs for material and trained human resources for the system to function properly, and the coverage of the courts' jurisdiction which is still limited in relation to national requirements.

649. Among the objectives for the future, it is hoped to gradually create more children's courts at the national level, strengthen material and logistic support to the courts for the fulfilment of their commitments, and with the likely approval of the law on the IHNFA, successful creation of an adequate system for the treatment of child offenders.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 paras. (b), (c) and (d))

650. The legislative and other measures adopted in accordance with paragraph (b) of article 37 may be found in article 180 of the Code on Children and Adolescents.

651. In regard to the measures and mechanisms established to prevent children being deprived of their liberty, in relation to asylum-seekers and refugees, reference may be made to the reservations made by Honduras to the Convention relating to the Status of Refugees of 1951 (para. 584 supra).

652. With regard to indeterminate sentences, it should be noted that the maximum penalty applicable under the new system is 8 years, to be reviewed on attainment of the age of 18 years.

653. To monitor the situation of the children concerned, there is an assessment and diagnosis unit in each centre.

654. The National Social Welfare Board, the entity responsible for the administration of these centres, should monitor the evolution of the situation, determine the difficulties encountered and establish objectives for the future.

655. In regard to the number of children deprived of liberty, unlawfully, arbitrarily and within the law, as well as the period of deprivation of liberty, see para. 668 below.

656. In relation to paragraph (c) of article 37, the Code on Children and Adolescents is the statute applied.

657. The right of the child deprived of liberty to be separated from adults, unless this is considered contrary to the best interests of the child, is a constitutional principle and is developed by the new Code. Honduras was denounced because the judges, faced with the non-existence of adequate centres for the fulfilment of measures of special juvenile justice, sent them to centres for adults. This situation has been remedied through the redesigning and refurbishment of special centres run by the National Social Welfare Board.

658. In Honduras there are various projects intended to improve this type of centre. International cooperation, especially the European Union, is collaborating strongly.

659. There has been no regulation of the management of these centres in regard to the right of the child to maintain contact with his or her family through correspondence and visits. So far and as a result of the denunciations of national and international NGOs entry to these institutions has been permitted

when required to verify conditions of treatment. The prosecution service and the Office of the Commissioner of Human Rights also make periodic visits to these centres.

660. The right of the child to complaints procedures is viable, but has never been used except through parents or representatives, because of the absence of regulations in these centres.

661. In regard to periodic review of the situation of the child and the circumstances relevant to his placement, the Code on Children contemplates this and it is actioned by the child or his representatives, or upon reaching the age of 18 years.

662. In regard to the right to education and health services, the Code contemplates these and they are provided in every custodial centre by the National Social Welfare Board.

Institutional aspects

663. The Code on Children covers a point of great interest for everything to do with the rights of the child, since one of its main functions is to serve as a frame of reference for the activities or actions undertaken in this field. We may thus see that the standard for the work may derive in some cases from specific provisions clearly enunciated in various parts of the new Code, while we may also find in the last Title a series of general provisions that allow us to see the level of intervention that this instrument entails for each protagonist in the situation.

664. The institutional aspects cover both government agencies and agencies belonging to civil society. Of the former we may take the National Social Welfare Board to be the coordinating body, monitoring the smooth development of actions in favour of children. From this there stems a range of institutional interventions, from government bodies in the matters in which they are competent as well as from nongovernmental organizations and other bodies created or already existing at the community or local level.

665. The intervention of each of these bodies involves more than just treatment in the strict sense and goes on to involve actions of a preventive order, without which it will not be possible to obtain an improvement in the situation of children. Isolated work should also be left to one side, as an outdated part of the process of integrated protection of children, so that all sectors should try to adapt themselves institutionally to the new challenges in the Code.

666. In regard to the measures adopted in compliance with paragraph (d) of article 37 to ensure that the child has the right to challenge the legality of the deprivation of his or her liberty, see the paragraphs on the legal recourse permitted to offenders.

667. There is no time-limit for the decision on such actions. Nevertheless these petitions must be submitted and the judicial time-limit is three days.

668. We give below some statistical data on investigation and judicial activities carried out by the Public Ministry through its prosecution departments, both special and regional, in matters regarding children:

(a) For the year 1995

669. The number of complaints referred to the Office of the Procurator for Minors and the Disabled in 1995 was two hundred and ninety-four (294) and includes the crimes of rape, incest, child stealing, abduction and rape, bodily harm, attempted homicide, corruption of minors, death threats, kidnapping of minors, disputed maternity and paternity, ill-treatment, losing of minors, irregular adoptions, abandonment of minors, refusal of family assistance, acts of lechery, illegal detention to the prejudice of minors, violation of the rights of the disabled, inter alia.

670. Cases are continually referred to the Department of Recruitment and Training while they are still under investigation, and also to the Directorate of Criminal Investigation.

Cases seen by the Office of the Procurator for Minors and the Disabled in1995

Complaints received	294
Cases investigated for processing	127
Not accepted for processing	100
Cases processed in the courts for trial	42
Accused awaiting sentence	5
Found guilty	4
Thrown out, acquitted or innocent	0

(b) For the year 1996

Offences committed against children - complaints received:

Tegucigalpa	871
San Pedro Sula	302
La Ceiba	94
El Progreso	43
Choluteca	27
Santa Barbara	27
Siguatepeque	25
Tela	21
Nacaome	20
Comayagua	17
Puerto Cortés	14
Catacamas	13
El Paraíso	12
Juticalpa	10
Danlí	9
Ocotepeque	8
Santa Rosa de Copán	7
Total	1 520

Most common offences:

Bodily harm	194
Disappearances	169
Rape	109
Robbery	106
Kidnapping	94
Threats	49
Child stealing	48
Attempted rape	41
Psychological ill-treatment	33
Physical ill-treatment	24
Sequestration	22

Status of complaints at the end of the year:

Complaints submitted to the Office of the Procurator	271
Complaints under investigation	945
Cases closed	304
Criminal proceedings started	98
Cases in plenary	80
Criminal proceedings discontinued	5
Guilty and sentenced	3
Acquitted	3

Offences committed by children (offenders)

Complaints received:

Tegucigalpa	43
Rest of the country	80
Total	123

Status of cases at the end of the year:

Cases finalized with sentence (oral judgement)	7
Cases finalized with discretionary criteria	48
Cases finalized with discontinuation	40
Cases pending investigation	28

(c) **For the year 1997 (January-May)**

Offences against children: complaints received

Tegucigalpa	454
San Pedro Sula	269
La Ceiba	19
Siguatepeque	30
Comayagua	22
Catacamas	37
El Progreso	8
Juticalpa	21

Danlí	15
Choluteca	13
Puerto Cortés	24
Santa Rosa de Copán	5
Santa Barbara	11
Nacaome	12
Total	940

Most common offences:

Ill-treatment	19%
Bodily harm	17%
Disappearances	13%
Attempted rape	12%
Rape	10%
Child stealing	9%
Kidnapping	9%
Threats	8%
Other offences	3%

Status of complaints submitted:

Complaints under investigation	56%
Complaints referred to the Office of the Procurator	35%
Cases closed	7%
Passive cases	2%

Offences committed by children (offenders)

Complaints received (Tegucigalpa)	299

Status of cases:

Complaints under investigation	190
Complaints under trial in the courts	109
Cases finalized with a sentence	2
Cases finalized with discretionary criteria	45
Cases finalized with discontinuation	17

(d) Conclusions

(i) The offences of ill-treatment and bodily harm are due in 70 per cent of cases to:

- problems of alcoholism and drug addiction on the part of the child's parents
- distressing economic problems with repercussions on the child
- physical or psychological ill-treatment of the child by step-fathers or step-mothers with no justification.

(ii) 95 per cent of the cases of rape of children are caused by:

- problems of alcoholism or drug addiction on the part of some relative of the child
- neglect by the parents in leaving their children alone
- children out until late hours of the night in the streets or dangerous places.

(iii) For the offences most commonly committed against children, the victims were girls in 56 per cent of cases and boys in 44 per cent of cases.

671. Among the progress achieved in implementing article 37 (b) to (d) we find:

Progress

- The approval of the Code on Children and Adolescents
- International cooperation and the national resources that have been directed as a matter of priority to the achievement of decent conditions in accordance with valid international norms in the centres of rehabilitation or resocialization of minors deprived of liberty.
- The existence of facilities, although they require physical repair to receive this population.
- The training of personnel on the basis of the principles of the Convention and related international norms and the Code on Children and Adolescents.

672. The difficulties encountered in the application of the article are due to the fact that before the Code came into force Honduras did not really have a system of special justice for children who break the law. Nor was there really a system of resocialization and rehabilitation of child offenders. For this reason there are no centres that are altogether appropriate for their treatment and it is necessary to finish refurbishing existing centres. Difficulties are also due to the lack of trained personnel to treat this population, the scarce material resources to offer a system of rehabilitation, and the fact that relations between the courts and the personnel in charge of the centres are not adequately governed and the centres regulated.

673. Objectives. Both the judicial authorities and the National Social Welfare Board are trying to initiate a total process of modernization of the legal aspect, human resources and material resources in the system for the treatment of child offenders.

3. The sentencing of children, in particular the prohibition of capital punishment and life imprisonment (article 39)

674. The programmes of the National Social Welfare Board establish measures in conformity with article 39 and in the light of paragraph 1 of article 40.

675. The draft of the law on the IHNFA also establishes mechanisms, programmes and activities to this end, and the education and vocational training to be given.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration

1. Economic exploitation of children, including child labour (art. 32)

676. The measures adopted to recognize and guarantee the right of the child to be protected against economic exploitation are set out in articles 133 to 137 of the Code on Children. It is the duty of the State of Honduras to formulate policies and elaborate, promote and execute programmes leading to the gradual abolition of child labour. It will also create programmes to support families in which there are children in situations of risk.

677. The work done by children should be appropriate to their age, physical condition and intellectual and moral age. The Secretariat of State in the Offices of Labour and Social Welfare will prevent the economic exploitation of children and ensure that they do not carry out dangerous work or work that interferes with their education or affects their health or their physical or mental development.

678. Children entering the labour force shall have a right to wages, social benefits and the other guarantees conceded by the law and individual or collective contracts to workers over 18 and to the special conditions recognized on account of their age and development by the Labour Code and the present Code on Children. The wages of child workers shall be in proportion to the hours worked.

679. Girls who work shall enjoy special protection in the case of pregnancy and breast feeding.

680. As well as being paid, the work done by children should be instructive and guiding, and should not be a limitation for their advancement. To this end, there should be close coordination between the Secretariats of State in the Offices of Labour and Social Welfare and in the Office of Public Education so that these objectives are achieved.

681. The Secretariat of State in the Offices of Labour and Social Welfare shall issue regulatory provisions on:

(a) The administrative sanctions applicable to offences committed during apprenticeship or the provision of services by apprentices or workers and employers;

(b) The guidance that should be given to child workers, their parents or legal representatives and the employer in regard to their rights and duties, working hours, permits and benefits and occupational health measures; and

(c) The manner in which the work of children will be inspected, and in general, on other matters relating to their work.

682. Those who commit the following acts shall be deemed to commit the offence of economic exploitation and shall be sanctioned with 3 to 5 years' imprisonment:

(a) Forcing a child to work special shifts or night shifts;

(b) Forcing a child to work for less than the minimum wage;

(c) Encouraging, inciting or forcing a child to carry out dishonest activities such as prostitution, pornography, obscenity and immorality;

(d) Inciting or forcing a child to carry out illicit activities; and

(e) On the pretext of family or domestic work, infringing the rights of the child established in this Code. In this case the sanction shall only be applied if after representations have been made to the person responsible he persists in the violation of this provision.

683. It shall be a cause for judicial emancipation if the father or the mother incite or force a child to beg or to carry out any of the acts referred to in subparagraphs (c) and (ch) of the foregoing article.

684. Municipal corporations and community and teaching organizations shall cooperate with the Secretariat of State in the Offices of Labour and Social Welfare in compliance with the obligations deriving from this Code.

685. Administrative sanctions for infringements of the provisions of this Chapter shall be applied by the Secretariat of State in the Offices of Labour and Social Welfare. Such sanctions shall not stand in the way of deduction of the corresponding civil and criminal responsibilities.

686. The State of Honduras has signed a Letter of Understanding with the ILO as part of its programme for the eradication of child labour, which contains a strategic plan of work.

687. The employment of children in any paid activity shall be subject to the provision of article 128, paragraph 7 of the Constitution of the Republic and shall require the prior authorization of the Secretariat of State in the Offices of Labour and Social Welfare at the request of the child's parents, siblings or legal representative. A similar authorization shall be sought by children proposing to do independent work, that is, work for which there is no remuneration or contract or relationship of employment. Before extending such authorization the Secretariat of State shall carry out a socioeconomic study and examine the physical and mental state of the children in question. The authorization shall be given when, in the opinion of the Secretariat of State,

the child will suffer no apparent physical, moral or educational prejudice on account of the activity in question.

688. Once the authorization has been given, the child may receive wages directly and, as the case may be, exercise the relevant actions with the help of a lawyer. Work permits shall be issued to individuals and should limit the number of hours worked and establish the conditions in which services are to be provided. In no case shall a child under 14 be permitted to work.

689. Activities in which pedagogical considerations are paramount over the productive aspect shall be regarded as educational work. The remuneration paid to the student shall not alter the educational nature of the work. Centres of work that utilize students carrying out their social educational practice may not give them work other than the tasks to which their practice is oriented. Notwithstanding the temporary nature of social educational work, students shall be offered adequate conditions in which to carry out their work, including in regard to retribution of their services.

690. Children shall not carry out insalubrious or dangerous tasks even if they are part of an educational or training programme. Insalubrity or danger shall be determined on the basis of the provisions of this Code, the Labour Code and the regulations that exist on this matter.

691. Taking all this into account, children may not perform work which:

(a) involves remaining in a static position for a prolonged period of time or that must be carried out on scaffolding of more than 3 metres in height;

(b) has to do with substances that are toxic or harmful to health;

(c) exposes them to motor vehicle traffic;

(d) exposes them to abnormal temperatures or has to be carried out in polluted environments or with insufficient ventilation;

(e) has to be carried out in tunnels or underground mine galleries or in places in which there is a combination of harmful agents such as pollutants, thermal imbalances or insufficient oxygen as a result of oxidation or gas formation;

(f) exposes them to noise exceeding eighty (80) decibels;

(g) involves the handling of radioactive substances, luminous paint, X rays or exposure to ultraviolet or infrared radiation and radio frequency emissions;

(h) involves exposure to high voltage electric currents;

(i) requires immersion in the sea;

(j) has to do with waste disposal or any other type of activity in which pathogenic biological agents are generated;

(k) involves the handling of explosive, flammable or caustic substances;

(l) involves acting as stokers in ships, railway trains or other similar vehicles;

(m) involves industrial paintwork with the use of white lead or cerisite, lead sulphate or any other product containing these substances;

(n) has to do with emery polishing, the sharpening of tools, high speed abrasive milling or similar occupations;

(o) has to do with blast furnaces, foundries, steel manufacturing, rolling, forging or pressing;

(p) involves handling heavy weights;

(q) has to do with changing transmission belts, oil or grease or other work in the vicinity of heavy or high speed transmissions;

(r) has to do with cutting, laminating, turning, milling, stamping machinery and other particularly dangerous machinery;

(s) has to do with glass or the polishing and dry finishing of glass or with operations of sand jet cleaning or on glass-making and engraving premises;

(t) involves soldering of any kind, oxyacetylene cutting in tanks or confined spaces or on scaffolding or preheated mouldings;

(u) has to be carried out in places where there are high temperatures or constant humidity;

(v) is carried out in environments giving off vapours or toxic dusts or that have to do with the production of cement;

(w) is carried out in agriculture or agroindustry involving a high risk to health;

(x) exposes them to a notorious risk of sunstroke; and

(y) is specifically mentioned in the regulations issued in this connection by the Secretariat of State in the Offices of Labour and Social Welfare.

692. The said Secretariat of State may authorize children over 16 and under 18 to carry out some of the work specified in this article if it is proved to the Secretariat's satisfaction that they have completed technical studies at the National Institute of Vocational Training or a specialized technical institute dependent on the Secretariat of State in the Office of Public Education. That entity shall, in any case, verify that the tasks can be carried out without danger for the health or security of the child.

693. Children under 18 are prohibited from engaging in any work that affects their morality. In particular they are prohibited from working in brothels and

other places of entertainment where alcoholic drinks are consumed. It is also prohibited to employ them on contract for the reproduction of pornographic scenes, violent deaths, apologies for crime or other similar work.

694. Persons knowing of the participation of children in work prohibited in this section shall inform the Secretariat of Labour and Social Welfare so that the relevant corrections and sanctions may be applied.

695. The maximum duration of children's working day shall be subject to the following rules:

(a) Children over 14 and under 16 may only work for not more than 4 hours per day;

(b) Children over 16 and under 18 may only work for not more than 6 hours per day; and

(c) Night work is prohibited for child workers. Nevertheless, those over 16 and under 18 may be authorized to work up to 8 pm provided this does not affect their regular attendance at a centre of education or harm their physical and moral health.

696. All employers using the services of children shall keep a register in which they shall enter:

(a) The name, surnames, age, address and domicile of the child;

(b) The name, surnames, address and domicile of the child's parents or legal representatives;

(c) The type of work being carried out, the number of hours worked per day and per week, indicating periods of rest;

(d) The form and amount of the wages or salary paid; and

(e) The date of commencement of work.

To this register shall be added the certification by the competent authorities that the child has fulfilled or is fulfilling his or her educational obligations, and the written authorization of the parents or legal representatives, with the assent of the Secretariat of Labour and Social Welfare.

697. The aptitude for work of child workers shall be controlled at medical check-ups every six months, or sooner if circumstances require. The Secretariat of State in the Offices of Labour and Social Welfare shall regularly inspect companies to establish whether they are employing child workers and complying with the rules for their protection.

698. Those who violate these rules shall be sanctioned with fines ranging from 5000.00 to 25 000.00 lempiras. Repeated violation shall be sanctioned with fines double the initial fine, although the maximum may not exceed the latter figure given. When a company has placed a child's life in danger or offended

against morality and damaged the morals of a child, the relevant civil and criminal sanctions shall be imposed in addition to the fine.

699. With regard to the preventive and corrective measures adopted, to meet the situation of child labour there are comprehensive programmes of treatment for these points in NGOs co-sponsored by the Government in various places in the country.

700. The measures to prevent and combat situations of economic exploitation and child labour will be found in the ILO/Honduras Letter of Agreement and in the regulations on work in the garment industry.

Suggestions for employers in the garment industry who contract child labour

701. Based on article 1 of the Code on Children and Adolescents a child is taken to be any boy or girl under the age of 18. Based on the information set out above, the population for which the Secretariat for Labour and Social Welfare is responsible ranges from 14 to 18 years, defining the child labour population. There are two parts to this definition, the definition of what constitutes a child and the determination of what is regarded as work.

702. For the said population to be incorporated into the national market a work permit is required (article 119 of the Code on Children and Adolescents).

703. Further to the investigation of child workers carried out in different garment companies in the northern region, all employers should take account of the following recommendations:

(a) In no case should a boy or girl under 14 years of age be contracted for work (article 120 of the Code on Children).

(b) All children between the ages of 14 and 18 working in the garment industry must have a permit issued by the Ministry of Labour, specifically by the Department of Social Promotion of Workers.

(c) All employers using the services of children shall maintain a real and reliable register of the personal documentation of the child population, annexing to it the permit granted by the competent authority (article 126 of the Code on Children and Adolescents).

(d) Social visitors are authorities who have duties and powers such as to inspect accounts, payroll, attendances and any other items that help them to carry out their work effectively, while the employers may not bring any action in relation to the working population (article 617 (a) and (b) of the Labour Code).

704. A National Commission has been formed, in accordance with the ILO/Honduras Letter of Agreement, to regulate child labour.

Statistical data on permits issued by the Ministry of Labour and Social Security to child workers in the following years:

Year	Number	Month	Tegucigalpa	National level	
1992	12 498	January	146	1 722	
1993	14 141	February	99	1 140	
1994	16 474	March	95	710	3572
1995	13 473	April	116	1 026	
1996	16 817	May	94	835	

In the years 1992, 1993 and 1994, the largest number of permits was for the building sector, but in 1995 and 1996 this had changed to industrial or mechanical workshops.

2. Drug abuse (art. 33)

705. In Honduras the Honduran Institute for the Prevention of Alcoholism, Drug Addiction and Dependence (IHADFA) has been created in accordance with the Constitution. It carries out preventive activities.

706. The objectives of the Institute are research and the prevention of alcoholism, drug addiction and drug dependence, and the treatment and rehabilitation of persons affected by these illnesses.

707. Prevention is the fundamental objective of the Institute, whose purpose is the promotion of health with the effective participation of the Honduran community in general, and young people and children in particular, as a source of gratifying life and work alternatives to the consumption of alcohol and other drugs.

708. To attain this objective the IHADFA will implement educational programmes by all the available means at its disposal and carry out activities and measures to control publicity and propaganda, sale and consumption of such products, provisions which include advertising regulations by which companies and agencies, manufacturers and distributors of alcoholic drinks, cigarettes and other tobacco derivatives and products with high potential toxicity are required to print legibly on the container, pack or wrapping the following messages:

- On the containers of alcoholic drinks: ABUSE OF DRINK IS HARMFUL TO HEALTH
- On the packs or wrappings of cigarettes and other tobacco products: THE USE OF THIS PRODUCT DAMAGES YOUR HEALTH (art. 6 of the IHADFA advertising regulations).
- There is also a classification imposing simple, special and absolute bans on publicity and advertising for alcoholic drinks, tobacco products and other drugs. (art. 7 of the IHADFA advertising regulations).

709. It is an obligation for the State, the family and the community to protect children against the use of substances that produce dependence or addiction. A child's father, mother and legal representatives have the responsibility to give guidance in regard to drug addiction. They also have the duty to participate in programmes of prevention and treatment of drug addiction carried out by public or private entities and to ensure that the child's free time is spent in educational, recreational, sports or artistic activities.

710. The Honduran Institute for the Prevention of Alcoholism, Drug Addiction and Dependence will cooperate with the competent authorities in the seizure and destruction of all written, televisual, photographic and cinematographic, radio or computer materials inciting to drug addiction, alcoholism or tobacco consumption. It will also denounce these facts to the Public Ministry and other competent authorities.

711. The conventions signed by Honduras include the UNICEF Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

712. The programmes carried out to create awareness among the general population include:

- educational and preventive campaigns;

- television programme of half an hour a week to educate about drug dependence;

- campaigns at times considered to be of greatest consumption (Holy Week, national festivals, Christmas, patronal festivals);

- permanent radio broadcast campaigns;

- in the school system, coordination with the Ministry of Education for continuous training of pupils and teachers, and for the inclusion of topics of prevention in the curriculum.

713. The IHADFA has no treatment or rehabilitation centres to assist children and their families directly, so that the measures adopted to assist children with addictions and counselling for parents consist exclusively in the referral of cases to treatment centres, with which close coordination is maintained.

714. The special regulations govern the restrictions and measures of prevention and control of the consumption, production and sale of alcoholic drinks, tobacco products and all kinds of dependence-inducing drugs in offices, sports centres, workplaces, education and other centres of the State and the private sector, with the following provisions:

- prohibition of smoking in the above-mentioned offices, places and centres;

- prohibition of sale for consumption and sale of alcohol in the above-mentioned offices, places and centres;

- prohibition of the sale of cigarettes and alcoholic drinks for consumption in Honduras if the pack or wrapping and every container does not carry visible printed warning messages about the harm they cause to health;

- prohibition of the sale of cigarettes to minors under eighteen and the sale of individual cigarettes extracted from their respective pack or wrapping.

3. Sexual exploitation and sexual abuse (art. 34)

715. In family counselling and the programmes of the National Social Welfare Board measures are taken to protect the child against all forms of sexual exploitation and abuse.

4. Sale, trafficking and abduction (art. 35)

716. The current Penal Code severely punishes kidnapping, abduction and other offences against the physical and psychological integrity of persons.

717. The State, through the National Social Welfare Board, pays for space in the principal communications media to look for the parents or persons responsible for abandoned children and to prevent this kind of event. Within the National Social Welfare Board special programmes have been developed to prevent these acts. There is a unit of legal professionals who act immediately to restore their rights to children who are abused.

718. The children's court, NGOs and the ordinary courts and jurisdictions deal with these circumstances in a coordinated manner. The Office of the Commissioner for Human Rights has a unit for the rights of the child monitoring this type of abuse. Within the Directorate of Criminal Investigation dependent on the Public Ministry there is special unit for problems relating to children.

719. Relevant training activities are offered to the police units, judges, officials of the National Social Welfare Board and Office of the Commissioner for Human Rights.

720. Honduras, as a member of the Organization of American States (OAS) and specifically in the actions of the Inter-American Children's Institute, has signed the Inter-American Conventions on Children to which it subscribed at the Inter-American Specialized Conference on Private International Law:

- Conflict of Laws on the Adoption of Minors, 1984;
- Alimony Obligations, 1989;
- International Restitution of Minors, 1989;
- International Traffic in Minors, 1994.

5. Other forms of exploitation (art. 36)

721. See family counselling (paras. 251 to 253).

D. Children belonging to a minority or an indigenous group (art. 30)

722. See introduction (paras. 12 to 23).
